

1 DIRECT EXAMINATION CONTINUED

2 BY MR. BIANCAVILLA:

3 Q Now, Miss Quinn, could you describe the lighting
4 conditions in that particular area when you walked by that
5 night?

6 A Well, there's a big, like, a lamp, like, a FLOOD
7 light back there, displayed.

8 Q Was the big flood light on?

9 A Yes.

10 Q Okay. Now, Miss Quinn on May 3rd of 2000 were
11 you taken to the Nassau County Police Department and did you
12 view a lineup?

13 A Yes, I did.

14 Q And were you able to pick anybody out of that
15 lineup?

16 A No, I was not.

17 Q And why not?

18 A They all looked the same. All the people in the
19 lineup looked the same.

20 Q I'm going to show you People's Exhibit 4 in
21 evidence; do you recognize that?

22 A Yes.

23 Q Is that the lineup that you viewed?

24 A Yes.

25 MR. BIANCAVILLA: Thank you.

1 I have no further questions of this witness.

2 THE COURT: Mr. Chamberlain,
3 cross-examination.

4 MR. CHAMBERLAIN: Mr. Biancavilla, could I
5 have the other photographs of the back of the Downtown?

6 THE COURT: You want people's 8 in evidence.

7 MR. CHAMBERLAIN: No, I want the other police
8 photographs.

9 MR. BIANCAVILLA: Judge, can we approach?

10 THE COURT: Yes, you can approach.

11 Step down a minute, Miss Quinn.

12 (Whereupon, the following takes place at the
13 Bench, between the Court and Counsel.)

14 MR. BIANCAVILLA: We asked Mr. Chamberlain
15 that he could have anything he wanted duplicated. I
16 have a use for those exhibits. I'm not turning them
17 over to him.

18 MR. CHAMBERLAIN: If he doesn't want to show
19 them to the jury, these were records --

20 THE COURT: I understand that. Discovery is
21 different than what the People intend to use at trial.

22 Now, as long as Mr. Biancavilla gave you an
23 opportunity to make copies of whatever photographs you
24 want, is that true? He did give you an opportunity to
25 duplicate?

1 MR. CHAMBERLAIN: Yes.

2 THE COURT: Did you not take advantage of it?

3 MR. CHAMBERLAIN: We did take advantage of
4 it. I will take a short break and look through my
5 file. I have to dig out some photographs.

6 THE COURT: You do have copies?

7 MR. CHAMBERLAIN: I have some, yes. I have
8 some other photographs. It would have been faster to
9 use the ones --

10 MR. BIANCAVILLA: I have a use for those.
11 Those are my photographs.

12 THE COURT: I would agree, it would be
13 faster, otherwise --

14 MR. CHAMBERLAIN: I'll use mine, Judge.

15 THE COURT: You want to take a moment?

16 MR. CHAMBERLAIN: I would like to take a five
17 minute break.

18 THE COURT: Yes, we can do that.

19 MR. CHAMBERLAIN: Thank you.

20 (Whereupon, the following takes place in open
21 court:)

22 THE COURT: Ladies and gentlemen, we're going
23 to take a short break at this point. Do not discuss
24 the case among yourselves or with anyone else. Keep an
25 open mind. Do not form or express any opinions until

1 the entire case has been completed. Do not read or
2 listen to any accounts of this case, should it be
3 reported in the media. Do not visit or view any places
4 or premises mentioned. You are to promptly report to
5 the Court any attempt by anyone to improperly influence
6 any member of the jury, or any violation thereof.

7 Be back in a moment. Please follow the court
8 officers.

9 THE COURT OFFICER: Follow me, please.

10 (Whereupon, the sworn jury and alternates
11 leave the courtroom)

12 (Whereupon, there is a five minute recess
13 taken in the proceedings)

14 THE COURT OFFICER: Jury entering.

15 (Whereupon, the sworn jury and alternates
16 enter the courtroom).

17 (Whereupon, the People's witness, Francine
18 Quinn, resumes the stand, having been previously duly
19 sworn by the Clerk of the Court to commence
20 cross-examination testimony as follows:)

21 CROSS-EXAMINATION

22 BY MR. CHAMBERLAIN:

23 Q Miss Quinn, I'm going to start back at the
24 beginning here.

25 You were working at the Downtown in April of

1 19 -- of 2000?

2 A Right.

3 Q And would you tell us, on April 11th you saw Ruth
4 with a man in the Downtown, a male white?

5 A I didn't hear what you said.

6 Q Could you tell us, did you tell us a little while
7 ago that you saw Ruth in the Downtown that evening with a
8 male white?

9 A Correct.

10 Q What did that person look like?

11 A Um --

12 Q That was not the defendant?

13 A No.

14 Q What did that person look like?

15 A He was about average height, thin, white male.

16 Q Do you recall testifying before the grand jury?

17 A Yes.

18 MR. CHAMBERLAIN: Page 29. Do you recall
19 being asked, line 9 -- line 12.

20 "QUESTION: Do you remember anything else
21 about him as you sit here today?"

22 "ANSWER: Yes. He had, like, tattoos on his
23 arms and you know he was a little stocky. He had a big
24 chest, big arms."

25 "QUESTION: We are talking about the man you

1 saw with Ruth at the Downtown?"

2 "ANSWER: Yes."

Q Do you recall those questions and answers?

4 A No. I recall the questions.

5 Q You say that after the Downtown you saw Ruth
6 again at Y.L. Childs, is that right?

7 A Yes.

Q You were friendly with Ruth, were you not?

9 A No.

10 Q No. Well, you were interacting with her, let's
11 say, at the Y.L. Childs, were you not, talking to her?

12 A No. No.

13 Q No? You were asked if Ruth left before you, and
14 you said yes, is that right?

15 A Yes, she did.

16 Q. And about how long after Ruth left did you leave?

17 A Probably about fifteen minutes.

18 Q About fifteen minutes. You were asked if the
19 defendant and John D. left before you, do you recall that?

20 A Yes.

21 Q And you indicated you don't recall?

22 A Right.

23 Q Do you recall being asked that in the grand jury
24 in July of 2000?

25 MR. BIANCAVILLA: Judge, I'm going to object

1 to that question.

2 A I don't recall.

3 MR. CHAMBERLAIN: "Would you tell the grand
4 jury" --

5 THE COURT: Excuse me, Mr. Chamberlain. You
6 can certainly ask the question, but just give us the
7 line and page number.

8 MR. CHAMBERLAIN: Page 40 and 41, Judge. I
9 will have the line in a minute.

10 THE COURT: Okay.

11 "QUESTION: And did you become aware at
12 sometime after that, that John Kane and the bald headed
13 man were no longer at Y.L. Childs?"

14 "ANSWER: No, I wasn't. I wasn't really
15 aware. I didn't pay attention to whether they had left
16 the bar or not before I left the bar."

17 Q Is that what you told the grand jury?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: I'm going to let it stand.

20 Overruled.

21 Q At that point you recall that you don't know
22 whether they left, you've forgotten it?

23 MR. BIANCAVILLA: I object.

24 THE COURT: Yes.

25 Q I said you don't recall here.

1 THE COURT: When there's an objection on the
2 floor, please let me rule on it before you ask another
3 question.

4 I'm going to sustain that objection.

5 You certainly can go into that area of
6 questioning, Mr. Chamberlain.

7 Q Is it correct that you don't now recall whether
8 they left before or after you, or is it correct that you do
9 not know whether they left before you?

10 MR. BIANCAVILLA: Judge, I'm going to object.

11 THE COURT: Counsel, please approach the
12 bench.

13 (Whereupon, the following takes place at the
14 Bench, between the Court and Counsel:)

15 THE COURT: Yes, Mr. Biancavilla.

16 MR. BIANCAVILLA: Judge, my objection, Judge,
17 how is that inconsistent?

18 MR. CHAMBERLAIN: The difference.

19 MR. BIANCAVILLA: There's no --

20 MR. CHAMBERLAIN: Not recognizing.

21 THE COURT: Wait, excuse me.

22 MR. BIANCAVILLA: There is no inconsistency
23 there at all, Judge. She said the exact same thing
24 here as she did in the grand jury. She may have used a
25 different word, but she said the same thing.

1 THE COURT: There is a difference between --

2 MR. BIANCAVILLA: Recalling and remembering.

3 THE COURT: And knowing.

4 Could you read the back the question to me.

5 (Whereupon, the requested question was read
6 back by the reporter as instructed)

7 MR. BIANCAVILLA: She said in the grand jury
8 she wasn't aware. That's the same thing she said here,
9 Judge. She wasn't aware.

10 MR. CHAMBERLAIN: It's not the same thing.
11 She said she didn't recall.

12 MR. BIANCAVILLA: That's not what she said.

13 MR. CHAMBERLAIN: There's been two years,
14 there is a difference.

15 THE COURT: There is a difference. I will
16 permit you to ask the question.

17 MR. CHAMBERLAIN: Thank you, Judge.

18 (Whereupon, the following takes place in open
19 court:)

20 THE COURT: Read back the last question.

21 (Whereupon, the requested question was read
22 back by the reporter as instructed.)

23 THE COURT: Do you understand the question?

24 THE WITNESS: Not really.

25 THE COURT: Would you rephrase the question?

1 MR. CHAMBERLAIN: Let me see if I can
2 rephrase it.

3 Q You told this jury here that you just don't
4 recall whether they left before you.

5 Do you recall what you told the grand jury, did
6 you tell the grand jury that?

7 MR. BIANCAVILLA: Objection.

8 THE COURT: That's not proper, sustained.

9 Q Does it refresh your recollection that you told
10 the grand jury:

11 "QUESTION:"

12 MR. CHAMBERLAIN: Line 21, page 40:

13 "Did you become aware at some time after that
14 John Kane and the bald headed man were no longer at
15 Y.L. Childs?"

16 "ANSWER: No, I wasn't. I really wasn't -- I
17 wasn't really aware. I didn't pay attention to whether
18 they the left the bar or not before I left the bar."

19 Question by the district attorney.

20 "I'm not asking if you actually saw them
21 walking out the door."

22 Interrupted.

23 "ANSWER: No."

24 "QUESTION: But did there come a time when
25 you were aware of the fact that they were no longer

1 present at the bar?"

2 "ANSWER: No."

3 "QUESTION: No recollection?"

4 "ANSWER: No."

5 "QUESTION: So, you didn't actually see them
6 leave the bar, is that correct?"

7 "ANSWER: No."

8 Q Do those questions and answers refresh your
9 recollection as to whether you saw the defendant and John
10 Kane leave Y.L. Childs before you did?

11 A I don't recall.

12 Q Okay. You were asked -- you testified here about
13 walking after you left, walking to where your car was
14 parked, is that right?

15 A Right.

16 Q And you walked down Main Street, around the
17 Downtown, which your car was parked somewhere behind the
18 Downtown, is that correct?

19 A Yes.

20 Q Did you tell this jury, would you tell this jury,
21 did you walk slowly or fast?

22 A Normal. I just walked.

23 Q Do you recall whether it was cold out that night,
24 would it refresh your recollection if it was cold out?

25 A Yeah, it was chilly.

1 Q Did you previously sign a statement that you
2 walked fast because it was cold out?

3 MR. BIANCAVILLA: Objection, Judge.

4 Q Does that refresh your recollection?

5 THE COURT: Well, I'll let it stand.

6 Overruled.

7 A I walked ahead of my roommate because I was cold.

8 Q Okay. Now, you told the district attorney and
9 this jury here that you saw this man, this defendant, and
10 Ruth, whom you knew, arguing outside the back door to her
11 apartment, is that right?

12 A Yes.

13 Q Were you asked about that previously in the grand
14 jury?

15 MR. BIANCAVILLA: Objection.

16 THE COURT: Sustained.

17 Q If you recall?

18 THE COURT: Sustained.

19 Q Were you asked this question and given this
20 answer to the grand jury, question by the district
21 attorney --

22 MR. BIANCAVILLA: Page?

23 MR. CHAMBERLAIN: I'm sorry, page 44, line
24 18.

25 "QUESTION" --

1 MR. BIANCAVILLA: One second,
2 Mr. Chamberlain.

3 MR. BIANCAVILLA: Okay.

4 MR. CHAMBERLAIN: "QUESTION: I take it, you
5 did not get a good observation of the face of the woman
6 or the face of the man?"

7 "ANSWER: No."

8 Q Does that refresh your recollection as to whether
9 or not you could identify these people who you say you saw
10 arguing?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: No, overruled.

13 A Could you repeat the question?

14 Q Question by the District Attorney:

15 "I take it, you did not get a good
16 observation of the face of the woman or the face of the
17 man?"

18 "ANSWER: No."

19 MR. BIANCAVILLA: Judge, he's taking that
20 questions out of context with respect to the rest of
21 the testimony in the grand jury. The very next
22 sentence clarifies that question.

23 THE COURT: I'll permit you on redirect to
24 clarify it, Mr. Biancavilla, as long as Mr. Chamberlain
25 is reading a complete question and answer.

1 Q Is that correct, does that refresh your
2 recollection? You couldn't tell the faces of these people,
3 right?

4 A I couldn't see the face.

5 Q You saw a build, is that right, and that's it?

6 A I saw a build of a man and a shaved head, just as
7 I saw in the bar ten minutes before that.

8 Q Were you wearing a coat that night, you said it
9 was cold?

10 A I don't remember.

11 Q Well, was this man that you saw wearing a coat
12 outside?

13 A No.

14 Q Did you -- could you tell us where -- you walked
15 behind Captain Andy's. Would you tell us where your car was
16 parked?

17 A It was parked in the second row in the parking
18 lot.

19 Q How many rows were there?

20 A It was the second row from the curb, from the
21 sidewalk.

22 Q Were there more than two rows, were there more
23 than two rows?

24 A Yes.

25 Q How many rows were there?

1 A I don't -- I don't know.

2 Q Francine, you have discussed this matter a number
3 of times with the district attorney, have you not?

4 A Yes.

5 Q And you have discussed -- you have testified
6 before the grand jury, right?

7 A Right.

8 Q You have also given statements to detectives,
9 right?

10 A Yes.

11 Q You, through your attorney, you have arranged
12 some agreement with respect to your testimony here?

13 A Could you explain?

14 MR. BIANCAVILLA: Objection, Judge. He knows
15 there's no agreement.

16 THE COURT: Well, you are presupposing
17 something.

18 MR. CHAMBERLAIN: He indicated he had an
19 agreement with her attorney, Judge.

20 MR. BIANCAVILLA: Judge, that's not --

21 MR. CHAMBERLAIN: On the record there is such
22 an agreement.

23 THE COURT: Excuse me, Mr. Chamberlain. Come
24 forward, Counsel.

25 (Whereupon, the following takes place at the

1 Bench, between the Court and Counsel:)

2 THE COURT: First of all, what was indicated
3 by the district attorney was a stipulation which was
4 outside the hearing of the jury.

5 MR. CHAMBERLAIN: No, Judge. Respectfully,
6 when he first started questioning her, he spoke about
7 an agreement he had reached with her attorney and he
8 named the attorney. That was his language -- not
9 mine -- his. It was on the record.

10 THE COURT: Mr. Biancavilla?

11 MR. BIANCAVILLA: I believe I used the word
12 stipulation. We would not use her testimony if she
13 should be questioned regarding the drug sales.

14 THE COURT: For argument sake, that is an
15 agreement. A stipulation is an agreement between
16 counsel for witnesses as well as the assistant district
17 attorney.

18 I'll permit you to go into that area.

19 MR. CHAMBERLAIN: Thank you, Judge.

20 (Whereupon, the following takes place in open
21 court:).

22 Q And you then not only discussed it with
23 detectives, the former district attorney that handled this
24 case, but you also had your attorney discuss your testimony
25 in connection with this case in accordance with an agreement

1 he has with the district attorney, is that correct?

2 An agreement was made with respect to your
3 testimony, is that correct?

4 A Yes.

5 Q Now, Miss Quinn, do you recall the location --
6 the location of your car, do you recall you said the second
7 row? Is that what you testified -- if you were to testify
8 to a different location before, would that refresh your
9 recollection now?

10 MR. BIANCAVILLA: Objection.

11 THE COURT: Sustained.

12 Q Was your car parked more behind the Downtown or
13 Captain Andy's?

14 A It was parked in the middle.

15 Q In the middle?

16 A Yeah.

17 Q I ask if these questions and answers before the
18 grand jury in July of 2000 refresh your recollection.

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Mr. Chamberlain, if you want to
21 attempt to refresh the recollection of a witness, you
22 first have to ask her if there's a document that would
23 refresh her recollection. If so, hand her the document
24 to look at.

25 Q I'm going to show you grand jury testimony, Miss

1 Quinn. Before -- starting at bottom of page 42, as to where
2 your car was parked, going on to the top of page 43.

3 (Whereupon, the referred to document is
4 handed to the witness.)

5 Q Having read that testimony, does that refresh
6 your recollection as to where your car was parked?

7 A Yes.

8 Q Where was your car parked?

9 A It was parked in the third row.

10 Q Not the second?

11 A Right.

12 Q Was it lined more behind Captain Andy's or more
13 behind the Downtown?

14 A It was more behind the Downtown.

15 Q I'm going to show you a photograph and ask you if
16 you recognize it?

17 THE COURT: Defendant's B for identification.

18 (Whereupon, the referred to item is received
19 and marked Defendant's Exhibit B for identification by
20 the reporter as instructed.)

21 THE COURT OFFICER: Defendant's B for
22 identification so marked, your Honor.

23 Q Does that photograph accurately represent the
24 back of the Downtown and Captain Andy's and the parking lot
25 in which your car was parked?

1 A Yes.

2 Q Would you please mark on that photograph exactly
3 where in the third row your car was parked behind the
4 Downtown?

5 A Over here.

6 (Whereupon, the witness complies with
7 request.)

8 Q Miss Quinn, you have indicated a marking here
9 that would appear to be more behind Captain Andy's than the
10 Downtown, is that correct?

11 A Where that car is.

12 MR. BIANCAVILLA: Objection, the photograph
13 speaks for itself.

14 THE COURT: The photograph is not in evidence
15 yet.

16 MR. BIANCAVILLA: It's not in evidence.

17 MR. CHAMBERLAIN: I will offer it.

18 THE COURT: You will move it into evidence?

19 MR. CHAMBERLAIN: I will move it into
20 evidence.

21 MR. BIANCAVILLA: Can I see it, Judge?

22 THE COURT: Yes.

23 Please show it to Mr. Biancavilla.

24 MR. BIANCAVILLA: No objection.

25 THE COURT: Mark it in evidence.

5 THE COURT OFFICER: Defendant's B marked in
6 evidence, your Honor.

7 THE COURT: Show it to the witness.

8 Mr. Chamberlain, do you want the photograph
9 shown back to the witness?

10 MR. CHAMBERLAIN: Yes, I would.

THE COURT: Okay.

Q The location of the marking, would that location
be more behind Captain Andy's or the Downtown?

14 MR. BIANCAVILLA: Objection. The picture is
15 in evidence and it speaks for itself.

16 MR. CHAMBERLAIN: I'm asking --

17 THE COURT: I'll permit that question.

18 A I guess it's -- it's, like, right in the middle.

19 Q I'm going to show you another photograph, Miss
20 Quinn, and ask you if that actually represents the back
21 of --

22 THE COURT: Excuse me, do you want that
23 marked. Mr. Chamberlain?

24 MR. CHAMBERLAIN: Yes, I do, Judge. Thank
25 you.

THE COURT: Defendant's C for identification

(Whereupon, the referred to item is received

and marked Defendant's Exhibit C for identification by
the reporter as instructed.)

THE COURT OFFICER: Defendant's C marked for
ation, your Honor.

7 Q Does that photograph accurately represent the
8 back of the Downtown and the back of Captain Andy's and,
9 specifically, the position right in the middle between the
10 two?

11 A Yes.

12 MR. CHAMBERLAIN: I'm going to offer that
13 photograph.

14 THE COURT: Show it to Mr. Biancavilla
15 please.

16 MR. BIANCAVILLA: Can I just have a voir
17 dire? ¶

18 THE COURT: Yes.

19 VOIR DIRE EXAMINATION

20 BY MR. BIANCAVILLA:

21 Q The direction that this photograph was taken of
22 the back of Captain Andy's, is this the view that you had
23 when you observed the defendant and Miss Ruth Williams?

24 MR. CHAMBERLAIN: That's improper voir dire,
25 Judge. The question on voir dire was whether this

1 represents --

2 THE COURT: I will allow the question with
3 respect to the direction itself, as the direction was
4 north, south, east or west.

5 MR. BIANCAVILLA: I'm asking her if this was
6 the view she was observing the Downtown.

7 THE COURT: I'll permit you to ask with
8 respect to north, south, east and west. I wouldn't ask
9 whether it's the actual view.

10 MR. BIANCAVILLA: What's the relevancy --

11 THE COURT: I don't know.

12 MR. BIANCAVILLA: If it's not the actual
13 view?

14 MR. CHAMBERLAIN: Objection, Judge.

15 THE COURT: Let's not have colloquy. I'm the
16 ultimate arbiter as to what's relevant at this point.

17 You have a voir dire, Mr. Biancavilla.

18 MR. CHAMBERLAIN: I ask that his remarks be
19 stricken and they be directed --

20 THE COURT: His remarks shall be stricken.

21 All colloquy should be disregarded by the ladies and
22 gentlemen of the jury.

23 Q With respect to this particular photograph, is
24 this the position in which you were standing when you would
25 be observing?

1 A NO.

2 MR. CHAMBERLAIN: Objection, improper voir
3 dire.

4 MR. BIANCAVILLA: Okay, objection.

5 THE COURT: Overruled.

6 Marked in evidence.

7 (Whereupon, the referred to item previously
8 marked for identification is received and marked
9 Defendant's Exhibit C in evidence by the reporter as
10 instructed)

11 THE COURT OFFICER: Defendant's C marked in
12 evidence, your Honor.

13 CROSS-EXAMINATION CONTINUED

14 BY MR. CHAMBERLAIN:

15 Q Can you, Miss Quinn, can you show us --
16 withdrawn.

17 Defendant's C is actually taken from a position
18 closer than you were that night, is that not correct?

19 MR. BIANCAVILLA: Objection.

20 MR. CHAMBERLAIN: Were you --

21 THE COURT: I'm not sure that it can be
22 answered that way because of the use of different types
23 of lenses on cameras.

24 So, I'm going to sustain objection.

25 Q Let me go back to Defendant's B and ask you, if

1 you put an X here on the edge of this photograph, is that
2 where you were standing that night?

3 A That's where my car was parked.

4 Q Where were you standing with relation to your
5 car?

6 A On the driver's side.

7 Q I see. And the location you indicated here was
8 that more behind Captain Andy's or more behind the Downtown?

9 MR. BIANCAVILLA: Judge, I'm going to object.

10 It has been asked and answered three times.

11 THE COURT: I'll permit it.

12 Overruled.

13 Last time, Mr. Chamberlain.

14 A It's in the middle.

15 Q In the middle between the two?

16 THE COURT: Do you understand that question?

17 THE WITNESS: Yes.

18 A It's in the middle.

19 MR. CHAMBERLAIN: Can I have these shown to
20 the jury, please.

21 THE COURT: Counsel, can I see you at the
22 bench?

23 (Whereupon, there is a discussion held at the
24 Bench, off the record between the Court and Counsel)

25 THE COURT: We'll put them on the machine.

1 Mr. Chamberlain, you can publish the
2 photographs if you'd like.

3 MR. CHAMBERLAIN: If you would.

4 (Whereupon, the referred to items are
5 published to the sworn jury and alternates.)

6 MR. CHAMBERLAIN: Can we do this one more
7 time.

8 (Whereupon, the referred to items are placed
9 on the viewer to be viewed by the sworn jury and
10 alternates.)

11 MR. CHAMBERLAIN: One last question.

12 THE COURT: Yes, Mr. Chamberlain.

13 Q While it's up they're, Miss Quinn, the third row
14 would be the location where that X is; in other words, it
15 would be a row by the curb?

16 THE COURT: Can you see that from here?

17 THE WITNESS: No.

18 THE COURT: Would you like to go into the
19 well and take a look?

20 THE WITNESS: No, it's all right.

21 A Yes.

22 Q The third row would be the location where that X
23 is, is that correct?

24 A Yes.

25 THE COURT: All right, ladies and gentlemen,

1 at this point we're going to break for the day. It's
2 been a long day. So, I think it's a good POINT to
3 break at this time.

4 Again, do not discuss the case among
5 yourselves or with anyone else. Keep an open mind. Do
6 not form or express any opinions until the entire case
7 has been completed. Do not read or listen to any
8 accounts of this case should it be reported in the
9 media. Do not visit or view any place or premises that
10 have been mentioned. You are not to permit any party
11 to discuss this case or an attempt to influence you.
12 You must promptly report to the Court any violation
13 thereof.

14 Ladies and gentlemen, we're going to start at
15 ten o'clock. So, not at 9:30, but at 10:00 a.m. the
16 Court has other court business.

17 At this point, have a very nice evening. And
18 we'll see you tomorrow.

19 THE COURT OFFICER: Jurors, follow me,
20 please.

21 (Whereupon, the sworn jurors and alternates
22 leave the courtroom.)

23 THE COURT: Miss Quinn, you're not to discuss
24 this case with anybody, you understand that, with any
25 other witness or any other person?

1 THE WITNESS: Yes.

2 (Whereupon, the witness leaves the witness
3 stand and exits the courtroom with counsel,
4 Mr. Ketover.)

5 THE COURT: We'll see you tomorrow morning at
6 ten a.m..

7 (Whereupon, court stands in recess. The
8 trial is adjourned to May 8th, 2001, at ten a.m.)

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1 STATE OF NEW YORK : NASSAU COUNTY

2 COUNTY COURT PART XIV

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK trial

5 - against -

6 PAUL SCRIMO,

7 Defendant.

8 -----X

9 May 8th, 2002
10 262 Old Country Road
Mineola, New York

11

12 B E F O R E :

13 HON. JEFFREY S. BROWN,
County Court Judge

15 A P P E A R A N C E S:

16 HON. DENIS DILLON
17 Nassau County District Attorney
18 BY: ROBERT BIANCAVILLA, Esq., of Counsel,
Assistant District Attorney
For the People

20 JOHN CHAMBERLAIN, ESQ.
21 1001 Franklin Avenue
Garden City, NY
22 For the Defendant

24 KATHLEEN PLAIA
25 OFFICIAL COURT REPORTER

7 THE CLERK: You may be seated.

8 This is case on trial, continued, People of
9 the State of New York versus Paul Scrimo.

10 All parties are present. Jurors are not
11 present at this time. 21

12 Are the People ready?

13 MR. BIANCAVILLA: Ready your Honor.

14 THE COURT: Defense ready?

15 MR. CHAMBERLAIN: Defendant ready.

THE COURT: Are we ready to proceed, Counsel?

17 MR. BIANCAVILLA: Judge, I believe there is
18 something for the record.

19 THE COURT: Yes, Mr. Biancavilla.

20 MR. BIANCAVILLA: Well, Judge, I think

21 Mr. Ketover is best to advise the Court or inform the
22 Court of what transpired yesterday after we broke.

23 THE COURT: Yes, sir, Mr. Ketover?

24 MR. CHAMBERLAIN: Judge, could we have a
25 conference off the record about this?

1 THE COURT: No, Mr. Chamberlain.

2 MR. BIANCAVILLA: I would like this on the
3 record, please.

4 MR. KETOVER: To make the record clear, I'm
5 not an advocate in any way in this matter.

6 THE COURT: You represent the witness.

7 MR. KETOVER: I represent the witness, and
8 that witness is Francine Quinn.

9 I received a phone call last night from
10 counsel for the defense in this matter, asking
11 questions about my client, which I had no problem with.
12 There was, as I understood it to be, a request to speak
13 with my client, which I said I couldn't do.

14 I was then informed immediately, when I told
15 Mr. Chamberlain that that can't happen, he said, well,
16 that's not what I meant. I said, maybe I
17 misunderstood.

18 And that was the full extent of the
19 conversation. There wasn't any real attempt to contact
20 my client by the defense. There wasn't anyone going to
21 speak to my client by the defense. It was a phone call
22 to my office, to make sure we're clear on both sides.

23 I just wanted to make sure I made a record so
24 if anything ever happened, there's no misunderstanding,
25 and putting my client in jeopardy as far as not obeying

1 the Court's order and not speaking with anybody.

2 THE COURT: As all Counsel are aware, before
3 we left this courtroom I admonished the witness not to
4 speak to anybody with respect to this case.

5 MR. BIANCAVILLA: Judge, I would ask that Mr.
6 Ketover set forth on the record what exactly the
7 subject matter of that conversation was and what
8 information Mr. Chamberlain was looking for, which was
9 specifically relayed to me by Mr. Ketover yesterday
10 afternoon in the conversation when he notified me of
11 Mr. Chamberlain's -- .ppp bpc

12 THE COURT: You said Mr. Ketover was more
13 detailed to you, Mr. Biancavilla?

14 MR. BIANCAVILLA: Yes.

15 THE COURT: Mr. Ketover, could you be more
16 detailed?

17 MR. KETOVER: The question -- the subject
18 that I think defense counsel was trying to get into
19 was, what, if any, contact my client had with, I
20 believe, a John Kane with alleged drug sale activity.
21 That was the sum and substance of what I think was the
22 attempt to get information on.

23 As I told Mr. Chamberlain then, if he had an
24 investigator that wanted to speak with my client before
25 the trial, in my presence, I would have been more than

1 happy to cooperate. But pursuant to this Court's
2 order, at this time that can't happen.

3 That was pretty much how I ended the
4 conversation. It was a short conversation. I don't
5 think it lasted -- lasted more than maybe eight or nine
6 minutes.

7 Again, I wanted to make sure all parties are
8 aware that there was not an ex parte communication, so
9 the Court would be aware of it, since my client is here
10 ~~at her own peril~~, since she has other charges pending
11 against her, and is not hung out to dry.

12 THE COURT: Mr. Chamberlain?

13 MR. CHAMBERLAIN: I very openly gave this
14 gentleman my card in front of other witnesses, told him
15 I would calling him yesterday afternoon as we left the
16 courtroom. I did call him. And I at no time suggested
17 I wanted to talk to his client. And at the end of the
18 conversation he said something about wanting to talk to
19 my client. I said, I didn't say that, I'm not asking
20 to talk to your client.

21 The conversation involved what her status was
22 with -- I was, in fact, trying to garnish some
23 information as to what he knew about this, as well as
24 her present charges, whether she was under indictment.

25 I -- at one point I did say, you have an

1 investigator. We have had an investigator try to speak
2 to Miss Quinn, both shortly after this happened and
3 approximately a week ago. She refuses to talk to our
4 investigator.

5 So, I had in no way attempted to talk to the
6 witness. I was trying to find out what he knew about
7 it.

8 And as far as the implication that I was
9 trying to have a conversation with his client, that is
10 completely erroneous. As a matter of fact, I made sure
11 I cleared that up at the end of the conversation.

12 MR. KETOVER: I can confirm that. At the end
13 of the conversation he did say, that's not what I
14 meant. I can confirm that.

15 MR. CHAMBERLAIN: I never said anything like
16 that, Judge. And I wouldn't say anything like that.

17 THE COURT: Now, what I'm concerned about,
18 if -- of course, attorneys are permitted to talk to
19 each other. There's no prohibition for attorneys to
20 speak to each other.

21 However, I'm concerned that there was in any
22 shape or form, that, Mr. Chamberlain, you attempted to
23 contact this witness through Mr. Ketover.

24 I ask you, Mr. Ketover, was there any
25 indication to you that Mr. Chamberlain was attempting

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1 to contact this witness?

2 MR. KETOVER: My understanding -- that's why
3 I phrased it that way -- what I believe to have been
4 asked of me, was whether or not he could have a
5 conversation with my client.

6 MR. CHAMBERLAIN: Judge, absolutely --

7 MR. KETOVER: I phrased it as, that is my
8 understanding. Could my understanding be erroneous?
9 Anything is possible, which is why I phrased it that
10 way. I did not articulate a position in any way or
11 form.

12 My understanding was, at the beginning of the
13 conversation, that you would like to maybe speak to my
14 client before court regarding these alleged drug sales.
15 I said, I can't do that for you, it's in the middle of
16 cross-examination, which immediately you did say,
17 that's not -- I'm not asking to speak with your client
18 directly. My response was, and I said, maybe I
19 misunderstood you. That was the --

20 MR. CHAMBERLAIN: You said something about,
21 you wanted to have a conversation. I said, no, I'm not
22 asking that. I never asked that. I wouldn't ask that,
23 Judge.

24 THE COURT: I'm even concerned that you asked
25 Mr. Ketover to ask his client something.

1 Now, Mr. Chamberlain, we all are quite clear
2 as to what my direction was with respect to this
3 witness, that nobody was to speak to her and she was to
4 speak to nobody.

5 Now, as I said before, I have no problem with
6 attorneys speaking to each other, because that's
7 permitted.

8 However, you know, at this point, let me ask
9 you, Mr. Ketover, at any point did Mr. Chamberlain
10 speak to your client?

11 MR. KETOVER: Absolutely not. There has been
12 no communications whatsoever between the defense or any
13 of his staff members and my client, that I'm aware of,
14 at all.

15 MR. CHAMBERLAIN: The only communication was
16 two years ago, shortly after this incident, which she
17 worked in the bar, which she refused to say anything.

18 And from what I understand -- it wasn't me
19 personally, it was the investigator -- approximately a
20 week ago, when I believe she told him she was told not
21 to discuss this with him or words to that effect.

22 THE COURT: I would just say, I'm very
23 disappointed with this indication. Because right now
24 we have an issue as to whether -- and Mr. Chamberlain
25 is denying it, Mr. Ketover is saying it's possible it

1 happened -- that there was a question he -- that
2 Mr. Chamberlain wanted to speak to Mr. Ketover's
3 client. At this point I have no evidence that, from
4 what Mr. Ketover told me, that you did not speak to --
5 that you spoke to Miss Quinn.

6 Now, I'm going to make myself very clear
7 here, I don't want any conversation whatever with Miss
8 Quinn or any other witness who should appear on this
9 stand.

10 Do we understand each other, Mr. Chamberlain?

11 MR. CHAMBERLAIN: Judge, I do.

12 One of the things that, with respect to this
13 witness and the prior witness, Miss Shouse --

14 THE COURT: Yes.

15 MR. CHAMBERLAIN: You have limited me to some
16 questions as to what they know about.

17 THE COURT: I made an evidentiary ruling,
18 that's correct.

19 MR. CHAMBERLAIN: Right. And you have
20 limited me to saying, to asking them whether or not
21 they had cocaine on those particular days, the 11th and
22 12th of April.

23 THE COURT: And May 5th and 6th and 7th,
24 which was the day she testified, which was yesterday,
25 which was May 7th.

1 MR. CHAMBERLAIN: Aside from that, Judge, the
2 questions I would ask those witnesses, you said for me
3 to -- after Mr. Kane testifies, I could bring those
4 witnesses back.

5 THE COURT: As I made very clear to you on
6 the record, depending on how the responses are from
7 Mr. Kane. If Mr. Kane denies it, you certainly could
8 bring them in. I even said to you, you subpoena them
9 and these witnesses do not attend, you can certainly go
10 forward with material witness orders and we will
11 proceed that way.

12 MR. CHAMBERLAIN: Are you directing me not to
13 try to talk to these witnesses after I subpoena them
14 with respect to this case?

15 THE COURT: No. I directed you not to speak
16 to this witness while she's on cross-examination.
17 She's in the middle of cross-examination.

18 MR. CHAMBERLAIN: I didn't try to speak to
19 this witness, believe me.

20 THE COURT: Not according to Mr. Ketover.

21 Obviously, he was concerned enough that he
22 brought this to the attention of the Assistant District
23 Attorney and now to the attention of the Court.

24 I don't know if he's mistaken or not,
25 Mr. Chamberlain. I'm not going to get into this at

1 this point. He says he may have been mistaken. I want
2 it perfectly clear, I'm ready to go forward with the
3 trial now.

4 However, I want it perfectly clear, when
5 somebody is on the stand and we're in the middle of
6 testimony, either direct or cross, and I usually at the
7 end I will make a direction that the witness not speak
8 to anybody during any break, I'm going to ask the same
9 thing; I don't want counsel speaking to them. That
10 goes, of course, for the assistant district attorney,
11 defense and defense counsel or anybody who might be an
12 investigator thereof.

13 MR. KETOVER: Judge, if I may, as a member of
14 the Defense Bar, I want to make a clear record. It's
15 not my intention, as I said, to take any position.
16 But, again, my client is here at her own peril. We do
17 have an agreement which specifically states nothing she
18 testifies to will be used against her. But there's
19 nothing else for her to be here on. So, I'm trying to
20 make sure that everything is crystal clear.

21 My understanding was, that was the question
22 asked. Immediately after I said that it can't be done,
23 Mr. Chamberlain then said, that's not what I was asking
24 of you. It was that quick of an exchange. It wasn't
25 delay. So, just so we're clear.

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1 MR. CHAMBERLAIN: Can I ask you who first
2 suggested talking to your client? Was it -- didn't you
3 bring that up in the conversation, that you want to
4 have a conversation with my client beforehand? And I
5 said, no. Isn't that the way it transpired? Didn't
6 you bring it up in the first place?

7 MR. KETOVER: My memory of the event is this:
8 You asked about her current charges. You then asked
9 about whether or not she had any experience with
10 Mr. Kane. You then asked me whether --

11 MR. CHAMBERLAIN: I --

12 THE COURT: Let Mr. Ketover finish.

13 MR. KETOVER: You then asked me -- this is my
14 memory of it -- if you can speak with her before court.
15 Maybe the term was "get together." I don't really
16 recall specifically. I then said, it's the middle of
17 cross-examination, that's improper. And then
18 immediately after I said that is when you corrected me
19 and said, I wasn't asking to speak with your client.

20 That was the full extent of the conversation,
21 which, like I said, lasted maybe five to seven minutes.
22 As far as I know, at this point no one from the defense
23 team has spoken to my client.

24 MR. CHAMBERLAIN: And I did not suggest --
25 I'll say it categorically -- "getting together" with

1 his client at any time. I suggested, if you want to
2 have -- are you suggesting that, and I said, I'm not
3 suggesting it. He brought it up, I didn't. I was
4 asking --

5 MR. KETOVER: I have no ax to grind here. I
6 want to make sure we're crystal clear.

7 THE COURT: The record is quite clear as to
8 what my directions are right now.

9 MR. CHAMBERLAIN: Fine, Judge.

10 THE COURT: Let's not have this come up
11 again.

12 Anything you want to add Mr. Biancavilla?

13 MR. BIANCAVILLA: No, Judge.

14 THE COURT: Bring the witness in.

15 THE COURT: Counsel, are you ready to
16 proceed?

17 MR. BIANCAVILLA: Ready, Judge.

18 MR. CHAMBERLAIN: Ready, your Honor.

19 F R A N C I N E Q U I N N, Recalled as a witness, having
20 been previously duly sworn, resumed the stand to
21 continue cross-examination testimony as follows:

22 THE COURT OFFICER: Jury entering.

23 (Whereupon, the sworn jury and alternates
24 enter the courtroom)

25 THE CLERK: Both sides stipulate all sworn

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1 jurors are present and seated properly?

2 MR. BIANCAVILLA: So stipulated, your Honor.

3 MR. CHAMBERLAIN: So stipulated.

4 THE COURT: Good morning, ladies and
5 gentlemen. I'm sorry for the delay. With all best
6 intentions we aim to start at the time I tell you we're
7 going to start, but sometimes something comes up,
8 things that have to be out of your hearing or other
9 court business. So, I want to let you know, it's not
10 that we're not thinking about you, it's just that we
11 have to do other things.

12 But we're ready to proceed now.

13 Mr. Chamberlain:

14 THE CLERK: Miss Quinn, you're reminded your
15 still under oath.

16 THE WITNESS: Yes.

17 CROSS-EXAMINATION CONTINUED.

18 BY MR. CHAMBERLAIN:

19 Q Miss Quinn, you and I have never spoken before we
20 first spoke yesterday when you were on the stand, is that
21 correct?

22 A Yes.

23 Q Were you contacted by an investigator from my
24 office? Were you contacted by an investigator concerning
25 this matter?

1 A Yes.

2 Q When was that?

3 A On several occasions.

4 Q And when was the last occasion?

5 A Last week.

6 Q And what, if anything, did you tell that
7 investigator?

8 MR. BIANCAVILLA: Objection.

9 A Nothing.

10 THE COURT: Sustained.

11 Q Did you refuse to discuss this case: Did you
12 tell him you have been told not to discuss this case?

13 MR. BIANCAVILLA: Objection.

14 THE COURT: I'm not sure what the relevancy
15 is, Mr. Chamberlain.

16 Q Did you discuss this case with that investigator?

17 A No.

18 Q Now, Miss Quinn, I want to direct your attention
19 back to the Y.L. Childs when you were there. Were you in
20 conversation with Ruth during that evening?

21 A No.

22 Q You testified that you saw Ruth kiss the
23 defendant, is that correct?

24 A Yes.

25 Q Did you see her kiss anybody else?

1 A No.

2 Q And when you saw her leave, about what time was
3 that?

4 A Probably about a little before four o'clock.

5 Q A little before four. And shortly after you
6 left, right, about ten, fifteen minutes, right?

7 A Before I left.

8 Q Shortly after she left, ten or fifteen minutes
9 you left?

10 A Yes.

11 Q When she left, how many people were left in the
12 bar shortly before four?

13 A I don't recall.

14 Q Approximately -- it was almost closing, right?

15 A Yeah.

16 Q Well, about how many people?

17 A Approximately, maybe, ten people.

18 Q Possibly ten people. Okay. And when you left,
19 how many people were left?

20 A Same people were there.

21 Q Same people. Now, it's correct that some of the
22 people that were there when she left were John Kane, whom
23 you knew, and the defendant, right?

24 A I'm sorry, could you repeat the question?

25 Q When she left Y.L. Childs, John Kane, whom you

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1 knew, and the defendant were still there, right?

2 A I don't recall.

3 Q Do you -- I'm going to show you a page from --
4 your testimony before the grand jury and see if it refreshes
5 your recollection.

6 MR. CHAMBERLAIN: Page 50, Mr. Biancavilla,
7 starting with top -- starting with line 5.

8 Question by a juror, line 5.

9 MR. BIANCAVILLA: Page 50?

10 MR. CHAMBERLAIN: It's 50 or 56.

11 THE COURT: Mr. Chamberlain, do you want that
12 marked?

13 MR. CHAMBERLAIN: Yes.

14 THE COURT OFFICER: Defendant's D marked for
15 identification.

16 (Whereupon, the referred to item is received
17 and marked Defendant's Exhibit D for identification by
18 the reporter as instructed.)

19 THE COURT: Mr. Chamberlain.

20 MR. CHAMBERLAIN: Thank you.

21 Q Does that refresh your recollection as to the
22 number of people left?

23 A Yes.

24 Q At the time you left?

25 A Yes.

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1 Q Pardon me?

2 A Yes.

3 Q What is it, what did you indicate?

4 A I said about ten people.

5 Q Had you told the grand jury -- a juror of the
6 grand jury about five? You mentioned five that worked
7 there?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Well, I'm not exactly sure what
10 the total statement was in the grand jury. I'm going
11 to overrule it for now.

12 MR. CHAMBERLAIN: Let me withdraw it, Judge.

13 Q You indicated -- you mentioned five and then
14 there were five or six more, is that a fair statement?

15 MR. BIANCAVILLA: Objection.

16 Q Would it be possibly eleven people?

17 MR. BIANCAVILLA: Objection.

18 THE COURT: I'll overrule it.

19 A I said, you know, about ten people. I said I
20 wasn't sure exactly how many people were there.

21 Q Did you tell a juror, did you indicate to a
22 juror, five people specifically?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: You know, Mr. Chamberlain, you
25 have to read the question and answer into the record if

1 you're going to use the grand jury testimony.

2 MR. CHAMBERLAIN: Question by a juror, line
3 5, page 56: .

4 "Actually, I have another question. I have
5 another question.

6 When you were leaving the bar, when you were
7 a guest in the bar, not where you were working, how
8 many people were actually left in the bar when they
9 said last call, aside from the five you mentioned?"

10 "Probably, like, five or six more."

11 MR. BIANCAVILLA: I'm going to object, Judge.
12 It's not inconsistent.

13 THE COURT: Apparently it is not.

14 Sustained.

15 Q Well, does that refresh your recollection as to
16 your mentioning five specific people?

17 MR. BIANCAVILLA: Objection.

18 THE COURT: Well, refreshing your
19 recollection is a different story.

20 Miss Quinn, after reviewing the grand jury
21 testimony, is your recollection refreshed as to the
22 amount of people that were in the bar at closing?

23 THE WITNESS: Is it refreshed? I don't
24 really understand what you're asking me. I don't
25 really --

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1 THE COURT: You responded you did not recall.
2
3 Therefore, I asked you if your grand jury testimony
4 refreshed your recollection as to how many people were
5 in the bar after closing, after reviewing that segment
of the grand jury testimony.

6 THE WITNESS: Yes.

7 THE COURT: Ask the question,
8
Mr. Chamberlain.

9 Q All right. Miss Quinn, essentially, there were
10 the same ten or so people there that were there when Ruth
11 left, is that correct? The number was the same, is that
12 right?

13 A Yes.

14 Q Nobody had come in during the period of time
15 after Ruth left, had they?

16 A No.

17 Q Now, directing your attention -- withdrawn.

18 It is your testimony that you walked quickly when
19 you left from that location around the Downtown to your car,
20 is that right?

21 A Yes.

22 Q Approximately how long did that walk take?

23 A Probably, about five minutes.

24 Q Five minutes. It was a block long, wasn't it?

25 MR. BIANCAVILLA: Objection.

1 THE COURT: I'll permit that.

2 Q How long a distance was it from Y.L. Childs to
3 the Downtown?

4 A I don't really know.

5 Q Isn't that one block?

6 A Yeah, it's one block.

7 Q Okay. When -- you indicated he -- when you got
8 to your car you were about to get in the driver's side --
9 driver's door and you saw some people arguing outside the
10 back entrance to captain Andy's, is that right?

11 MR. BIANCAVILLA: Judge, I object. We went
12 through this yesterday on several occasions.

13 THE COURT: Overruled. I'll permit it.

14 A I heard noises.

15 Q You heard noises?

16 A I heard voices.

17 Q Could you tell -- could you tell what the people
18 were saying?

19 A I heard escalated voices. I heard the word fuck
20 and it caused me to draw my attention that way.

21 Q Now, you told us -- withdrawn.

22 You could not tell what -- you indicated that
23 there was an argument, you couldn't tell what the argument
24 was about, is that your testimony?

25 A Yes.

1 Q You indicated to the district attorney that you
2 were approximately fifty feet away from where these people
3 were standing.

4 MR. BIANCAVILLA: Objection.

5 THE COURT: Overruled.

6 MR. BIANCAVILLA: Judge, I don't think
7 anywhere in the testimony did I ask was she fifty feet
8 away.

9 MR. CHAMBERLAIN: I think he did.

10 THE COURT: Let's do it this way. I will
11 sustain that. Just ask the question of the witness.

12 Q Do you remember being -- well. Did you -- how
13 far away were you when you were -- from where you were
14 standing where these people were?

15 A Probably, maybe, about fifty feet.

16 Q It's your testimony that it was about fifty feet
17 from -- withdrawn.

18 They were standing right outside the door, the
19 double door that you referred to, is that correct?

20 A They were standing in that area, by the door.

21 Q Were they standing any distance away from it?

22 A I'm not -- I'm not really sure. It was in that
23 area. It was where the door to her apartment is.

24 Q Well, were they right adjacent to the door? Were
25 they five or ten feet away? Can you tell us that or not

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1 tell us that?

2 A The area where they were standing was the
3 entrance to where her apartment is.

4 Q Were the doors opened or closed?

5 A The door was closed.

6 Q Closed. Are you sure of that, Miss Quinn?

7 MR. BIANCAVILLA: Objection.

8 THE COURT: Overruled.

9 A Yes.

10 MR. CHAMBERLAIN: Page 49, starting with line
11 3.

12 Q Miss Quinn, do you recall these questions and
13 answers before the grand jury:

14 Question by the district attorney. "Were
15 they a couple of feet away from the doors? Were they
16 relatively in close proximity? Can you give us some
17 idea?"

18 "ANSWER: They were kind of like in the
19 middle of the entrance of the doors. They weren't
20 right in front of the door. "But --"

21 "QUESTION: Do you have a recollection when
22 both of these doors were -- withdrawn.

23 Do you have a recollection of whether the
24 right hand door was open or closed?"

25 "ANSWER: No."

1 "You don't have a recollection."

2 "ANSWER: No."

3 Q Do you recall those questions and answers?

4 A Yes.

5 Q Now, the right hand door was the door that led up
6 to the victim's apartment, is that right?

7 A Yes.

8 Q And could you tell this jury what if anything has
9 refreshed your recollection over your recollection before
10 the grand jury on July of 2000 as to the door -- as to the
11 doors?

12 MR. BIANCAVILLA: Objection.

13 THE COURT: Yes, sustained as to form,
14 Mr. Chamberlain.

15 Q Have you discussed this case with anybody else
16 since then?

17 A No.

18 Q Never. You haven't discussed what you were going
19 to testify to? Didn't you discuss it with the district
20 attorney?

21 A Well, with the district attorney.

22 Q Yes, with the district attorney?

23 A Yes.

24 Q And Mr. Dempsey, another district attorney before
25 him?

1 A Yes.

2 Q As you sit here, testimony what is your testimony
3 as to whether the doors were open or closed?

4 MR. BIANCAVILLA: Objection.

5 THE COURT: Last time I'll permit this.

6 A I don't remember it being opened.

7 Q Now, Miss Quinn, you testified that these people
8 you saw arguing or the person you knew as Ruth and this
9 defendant, is that correct?

10 A Yes.

11 Q When you testified before the grand jury two
12 years ago you were not certain as to whether it was these
13 people, is that correct?

14 MR. BIANCAVILLA: Objection.

15 Q Miss Quinn, you appeared at a lineup shortly
16 after this man was arrested, were you not?

17 A Yes.

18 Q And did you view this lineup from a few feet away
19 from the individuals you were viewing, approximately five or
20 seven feet; do you know how far away the people were? You
21 were standing in front of a one way glass, right, where they
22 couldn't see you, you could see them?

23 A Yes.

24 Q Approximately how far away were these
25 individuals?

1 A I don't know, about maybe five, six feet.

2 Q Okay. And this is the way the individual that
3 you looked on that occasion back two years ago on May 3rd
4 when you viewed that lineup, right?

5 A I'm sorry, I didn't understand the question.

6 Q In other words, -- withdrawn.

7 You were unable to identify Mr. Scrimo from five
8 or seven feet away on May 3rd, is that correct, May 3rd,
9 2000?

10 A Yes.

11 Q And on the night in question you were standing,
12 as you said in People's B, alongside a car parked in the
13 third row. Would you tell me your estimate of the distance
14 of the third row from where the back door is that you were
15 referring to and where those people were?

16 MR. BIANCAVILLA: Objection.

17 THE COURT: Can you do that, Miss Quinn?

18 THE WITNESS: Can I --

19 THE COURT OFFICER: Looking at People's B in
20 evidence.

21 THE COURT: Look at People's B. Can you look
22 at People's B and tell us how many feet? Does that
23 refresh your recollection? I presume that's the
24 question you want to ask.

25 MR. BIANCAVILLA: Judge, there's no testimony

1 that that's the view she was observing them from.

2 MR. CHAMBERLAIN: There was testimony. They
3 marked an X, Judge.

4 THE COURT: Based on that objection, I'm
5 going to sustain it.

6 I'm going to let Mr. Chamberlain ask that.

7 Q From where you marked the X on that photograph,
8 can you estimate the distance from that place to the
9 location where the two people were standing?

10 MR. BIANCAVILLA: Objection.

11 THE COURT: Well, you are presupposing
12 something.

13 Miss Quinn, you marked an X on that
14 photograph. People's B in evidence -- Defendant's B in
15 evidence, is that correct?

16 THE WITNESS: Yes.

17 THE COURT: That's the place you were
18 standing when you observed the two people near the back
19 of Captain Andy's.

20 THE WITNESS: No.

21 Q What does the X signify?

22 A That's where the car was parked.

23 Q The car was parked. And what part of the car
24 would the X signify? That row that the X -- that row of
25 cars points away from Captain Andy's, does it not?

1 MR. BIANCAVILLA: Judge, I'm going to object.

2 THE COURT: Yes, I'm confused. Wait,

3 Mr. Chamberlain. I'm confused by that question.

4 I'm going to sustain it in that form.

5 MR. CHAMBERLAIN: I will withdraw it, if I
6 may.

7 Q Was your car parked facing diagonally away from
8 Captain Andy's at that time?

9 A Yeah.

10 Q And so, the X would mark the back of where your
11 car was parked, would it not?

12 A Yes.

13 Q And so, you were actually a little further away,
14 around the side of the path of the driver's side of the car,
15 about to get in, is that correct?

16 A No. I was on the driver's side of it. The car
17 was parked diagonally. I was walking around to the driver's
18 side.

19 Q Miss Quinn, did you see the people after you
20 heard this argument? Did you see whether they were in or
21 out or left or anything?

22 A No. I got in my car and left.

23 Q And is there no question that this conversation
24 we're talking about was taking place outside this doorway,
25 not inside, right?

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1 A Yes.

2 Q Have you been to the victim's apartment, do you
3 know?

4 A No.

5 Q Let me direct your attention to Downtown when you
6 saw this other -- this male white that you described
7 previously at the Downtown earlier that evening, the evening
8 of April 11th and 12th. Was John Kane there?

9 A At the Downtown?

10 Q Yes.

11 A No.

12 Q Was John Kane -- you knew John Kane fairly well
13 at that time, didn't you?

14 A He was a frequent customer of the Downtown.

15 Q Was he -- had he ever been barred from the
16 Downtown for selling drugs?

17 MR. BIANCAVILLA: Objection.

18 Q Do you know?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: Sustained.

21 Q Who was the owner of the Downtown?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: I'll permit that.

24 Q Who was the owner of the Downtown?

25 A Scott Morano.

1 Q And his son -- was Scott the owner or the father,
2 Tony?

3 A Scott's the owner.

4 Q Father is Tony Morano?

5 A Yes.

6 Q Was there a bouncer/doorman by the name of Chris
7 Killstat at the Downtown?

8 A Past employee, yes.

9 Q Past employee. I'm talking about --

10 THE COURT: Are you referring to April 11th
11 and 12th?

12 MR. CHAMBERLAIN: Yes.

13 A Yes, he was.

14 Q Now, were you present when there was an incident
15 involving a woman who grabbed money from John Kane claiming
16 that he had shorted her on a drug sale?

17 MR. BIANCAVILLA: Judge, I'm going to object.

18 THE COURT: Sustained.

19 MR. BIANCAVILLA: Judge, I want to approach
20 on this.

21 THE COURT: Yes, Counsel, come forward.

22 Could you step down please.

23 (Whereupon, the following takes place at the
24 Bench, between the Court and Counsel:)

25 THE COURT: Mr. Biancavilla.

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1 MR. BIANCAVILLA: Judge, I want you to direct
2 Mr. Chamberlain to stop this or I want him sanctioned.

3 You have spent two days telling him not to
4 elicit this type of testimony. You have made a record
5 clearer than any other record I ever heard and he
6 continues to defy your Court order, and I think the
7 only way you will --

8 MR. CHAMBERLAIN: I want --

9 MR. BIANCAVILLA: Is to sanction him.

10 THE COURT: Mr. Chamberlain.

11 MR. CHAMBERLAIN: I would like this outside
12 the presence of the jury, because I want --

13 THE COURT: Let's go in chambers.

14 MR. CHAMBERLAIN: I've got some --

15 THE COURT: That's it. Let's go into
16 chambers.

17 MR. CHAMBERLAIN: I have some material I
18 would like to bring in.

19 THE COURT: Ladies and gentlemen, we're going
20 to take a short break at this point. Do not discuss
21 the case among yourselves or with anyone else. Keep
22 an open mind. Do not form or express any opinions
23 until the entire case is completed. Do not read or
24 listen to any accounts of this case, should it be
25 reported in the media. Do not visit any place or

1 placed mentioned. Finally, you are not to permit any
2 party to discuss this case with you or attempt to
3 influence you. You are to promptly report to the Court
4 any violation thereof.

5 We'll be back with you shortly. Please
6 follow the court officers.

7 THE COURT OFFICER: Please follow me.

8 (Whereupon, the sworn jury and alternates
9 leave the courtroom.)

10 THE COURT: Counsel, join me in chambers,
11 please.

12 (Whereupon, the following takes place in
13 chambers, between the Court and Counsel, Mr. Ketover is
14 also present.)

15 THE COURT: Mr. Chamberlain, you heard my
16 admonitions with respect to cross-examination. I don't
17 understand why you keep asking those questions. You
18 can certainly ask Mr. Kane on the specific dates with
19 respect to any cocaine transaction you want. If he
20 denies it, I said you can bring in anybody you want
21 under subpoena or bring them in.

22 Now, I don't understand why you keep asking
23 those questions when I asked you not to do this
24 yesterday.

25 MR. CHAMBERLAIN: My understanding, Judge,

1 was that I was supposed to defer asking this witness
2 questions about her involvement or anything about that.

3 THE COURT: No, I said --

4 MR. CHAMBERLAIN: With respect to that. I
5 have a good faith basis for asking these questions. I
6 have statements from other people that will support
7 them, which I will show to the court, in-camera, if the
8 Court were so inclined.

9 MR. BIANCAVILLA: If I could briefly
10 interrupt you. I have Appellate Division cases from
11 every Department in this state that basically say, set
12 forth the proposition that Mr. Chamberlain cannot do
13 what he's trying to do at this trial. Let me read the
14 citations into the record.

15 People v Barnhill, 180 AD2d, 884, Third
16 Department from 1992; People v. Walton, 170, AD2d, 349,
17 First Department, 1991; People v. Bugman, 254, AD2d,
18 796, Fourth Department from 1998; People v. Alvino, 71
19 NY2d 233, 1987; People v. Umbarro, 128 AD2d, 712,
20 Second Department, 1987; People v. Diaz, 209 AD2d, 633,
21 Second Department 1994.

22 Judge, I will leave these cases with your law
23 secretary. But, basically, they clearly set forth, you
24 cannot collaterally -- this all has to do with the
25 introduction of collateral evidence, Judge. And

1 they're very clear, from the Court of Appeals right
2 down through all the Departments, you cannot
3 collaterally try to impeach a witness with the type of
4 evidence that he's trying to do.

5 MR. CHAMBERLAIN: Judge, I understand -- I
6 know the law on collateral, on estoppel of collateral
7 evidence.

8 MR. BIANCAVILLA: There are many cases.

9 MR. CHAMBERLAIN: Let me finish, please.

10 THE COURT: Let Mr. Chamberlain speak.

11 Yes, Mr. Chamberlain.

12 MR. CHAMBERLAIN: There are many cases on
13 collateral attack, Judge. There's no question about
14 that. I do not consider this a collateral attack.
15 Because the question here is not Mr. Kane's
16 credibility. It certainly is not solely Mr. Kane's
17 credibility. It's more than that. It's Mr. Kane's
18 relationship to this witness or to other witnesses, to
19 the victim and who had a relationship. It's not a
20 question of his credibility, although that will be
21 involved. It's a question of relationship, which has
22 been brought out by the People in connection with --

23 MR. BIANCAVILLA: At this point --

24 MR. CHAMBERLAIN: Part of these witnesses are
25 testifying as to the relationship between who they knew

1 and how they knew them. I'm entitled to go into that,
2 I think, on cross-examination. I'm entitled to bring
3 out information I have. And I have a good faith basis
4 for all of these questions. I truly believe --

5 THE COURT: You're attacking collaterally
6 through another witness. You're attacking Mr. Kane's
7 credibility through Miss Quinn. That is not
8 permissible.

9 MR. CHAMBERLAIN: I'm not attacking.

10 THE COURT: Obviously by asking the questions
11 with respect to cocaine transactions of Mr. Kane,
12 you're attacking -- because if she's going to
13 acknowledge, yes, he did, you're attacking Mr. Kane's
14 credibility through Miss Quinn.

15 MR. CHAMBERLAIN: But I'm not attacking his
16 credibility here. I'm talking about his lifestyle.
17 I'm talking about who he is.

18 THE COURT: His lifestyle?

19 MR. CHAMBERLAIN: I'm bringing forth, Judge,
20 the relationship between -- of Kane to the victim, to
21 this young lady, and to other people, based upon
22 information I have that she is -- that he was a drug
23 supplier, and there are witnesses who have testified
24 here he was a drug supplier. And I believe I should
25 have an opportunity to bring that out. I think it's

1 part and parcel of this entire case. Why the police
2 did not arrest Kane or did not investigate his drug
3 involvement, I don't know. But you're going to find
4 out they didn't.

5 THE COURT: One moment, Mr. Chamberlain.

6 MR. CHAMBERLAIN: Judge, I have --

7 THE COURT: I'm reading, Mr. Chamberlain.

8 MR. CHAMBERLAIN: Fine.

9 (Whereupon, there is a brief pause.)

10 THE COURT: Mr. Chamberlain, it's quite clear
11 to me that my ruling is correct.

12 MR. CHAMBERLAIN: Can I be heard one further
13 second, Judge?

14 THE COURT: Yes.

15 MR. CHAMBERLAIN: This witness has claimed
16 Kane, who she knew well, was a regular visitor at the
17 Downtown.

18 THE COURT: Yes:

19 MR. CHAMBERLAIN: I think I have a right to
20 attack her credibility or ask her questions if based
21 upon the information I have that Kane had been barred
22 from the Downtown for selling drugs there, if she was
23 aware of that. I have a right -- I have a basis for
24 those questions. I have signed statements to that
25 effect, that kane had been barred by the fellow she

1 mentioned, this Scott Morano, from going -- because he
2 was selling drugs there.

3 THE COURT: That is a collateral matter,
4 Mr. Chamberlain. It's collateral. If you would like
5 to, as I explained to you, this is the last time I'm
6 going to explain it to you, you will have ample
7 opportunity to cross-examine Mr. Kane on all these
8 items. I'm sure you will.

9 Now, of course if he should testify
10 differently to what your other information is, you will
11 have an opportunity at that point on your case to
12 cross-examine or else produce witness, if that's the
13 case. But at this juncture you are cross-examining on
14 collateral matters that -- I will not permit it.

15 This is the last time I'm going to put it on.
16 I don't want to have to get involved with sanctions. I
17 want this perfectly clear, okay? I don't want to keep
18 coming in here and have these conferences in chambers,
19 going over the same thing we went over yesterday and
20 the day before. Okay?

21 You have an exception.

22 MR. CHAMBERLAIN: All right, Judge.

23 (Whereupon, the following takes place in open
24 court:)

25 MR. CHAMBERLAIN: I will be allowed one area

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1 that you allowed with respect to Miss Shouse with
2 respect to use on that night?

3 THE COURT: Yes. I made that ruling. And
4 also with respect to within the last couple of days.

5 MR. CHAMBERLAIN: Would you explain to the
6 jury -- all right.

7 THE COURT OFFICER: Jury entering.

10 THE COURT: Mr. Chamberlain.

11 CROSS-EXAMINATION CONTINUED

12 BY MR. CHAMBERLAIN:

13 Q Miss Quinn, on the night on or about April 11th
14 or April 12th, during that period of time, were you -- did
15 you use any cocaine during that period of time, the year
16 2000?

17 A No.

18 Q You indicated to the district attorney, in answer
19 to his questions, that you were charged with six counts of
20 sale and six counts of possession of cocaine, is that
21 correct?

22 MR. BIANCAVILLA: Objection.

23 MR. CHAMBERLAIN: I think it was placed on
24 the record.

25 MR. BIANCAVILLA: It wasn't.

1 THE COURT: That's not what the district
2 attorney said, Mr. Chamberlain. If you want to ask a
3 question --

4 Q Were you so charged?

5 A Yes.

6 Q And you were asked --

7 MR. BIANCAVILLA: Judge, I'm going to object.

8 THE COURT: Well, I haven't heard the next
9 question.

10 Q You were asked when you left the Downtown; you
11 said the last day of July 2001, is that correct?

12 A I said the end of July.

13 Q The end of July. All right. And you indicated
14 that was to better yourself, to get a better position?

15 A Yes.

16 Q Isn't it a fact, you were arrested on August 1st,
17 2001 for sale and possession of cocaine?

18 A Yes.

19 MR. KETOVER: If I might interject, he's
20 mischaracterizing.

21 MR. CHAMBERLAIN: I object to the counsel
22 interjecting.

23 MR. BIANCAVILLA: He is mischaracterizing the
24 charges and everything else.

25 MR. CHAMBERLAIN: I'm not, I object.

1 THE COURT: Excuse me. Excuse me.

2 Everybody. I'm in charge of the courtroom, okay. When
3 I talk, nobody else does.

4 Now, I think perhaps, Mr. Chamberlain, you
5 could be more specific as to the allegations and dates.

6 THE COURT: Come forward, Counsel.

7 (Whereupon, the following takes place at the
8 Bench, between the Court and Counsel:)

9 MR. KETOVER: If I might just make it easier.
10 I'm not playing games here. She wasn't charged with
11 sale of cocaine on -- possession of cocaine. I think
12 there might have been Ecstasy. So, clearly what she was
13 charged with --

14 THE COURT: That what I'm --

15 MR. KETOVER: She's answering, yes, I was
16 charged.

17 THE COURT: There were certain dates these
18 things happened alleged in the indictment. Those are
19 the dates you're supposed to use. You say such and
20 such a day.

21 MR. KETOVER: As well as different controlled
22 substances. There wasn't cocaine.

23 THE COURT: Be specific.

24 MR. CHAMBERLAIN: The date is correct. And
25 I'll ask the date for the charge.

1 MR. BIANCAVILLA: That's why I was objecting,
2 so you know.

3 MR. CHAMBERLAIN: I have a letter from Bill
4 Dempsey saying she was arrested on August 1st.

5 THE COURT: Excuse me. She may have been
6 arrested on August 1st. I don't know the dates of the
7 alleged sales.

8 MR. BIANCAVILLA: Exactly.

9 MR. CHAMBERLAIN: I haven't asked those
10 questions.

11 THE COURT: That's the important dates. I
12 can understand, you can ask her if she was arrested on
13 such and such a date. When you make reference to the
14 actual sales, you have to be specific as to the date
15 that allegedly those sales took place.

16 MR. BIANCAVILLA: And what sales.

17 THE COURT: And what the sales are for.

18 MR. KETOVER: Yes. Again, my client isn't
19 looking to sidestep anything.

20 MR. CHAMBERLAIN: If he wants to bring out
21 what the sales were for --

22 THE COURT: You have an absolute right. I'm
23 not denying you.

24 MR. CHAMBERLAIN: Thank you.

25 (Whereupon, the following takes place in open

1 court:)

2 THE COURT: Mr. Chamberlain.

3 CROSS-EXAMINATION CONTINUED

4 BY MR. CHAMBERLAIN:

5 Q Miss Quinn, you were, in fact, arrested on August
6 1st, 2001 and charged with drug sales, were you not?

7 A Yes.

8 Q And the dates of these drug sales, when were
9 they; can you tell us that?

10 A I don't remember the exact dates.

11 Q Well, they, according to your answer to the
12 district attorney, they were all at the Downtown Bar, is
13 that correct?

14 A Yes.

15 Q And were they to -- withdrawn.

16 Can you tell me the range of dates, approximate
17 range of dates?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: Well, that's kind of a nebulous
20 question, Mr. Chamberlain. Perhaps you could be more
21 specific.

22 Q Well, we're talking about a period -- your arrest
23 was August 1st, 2001. How long prior to that period did
24 these sales take place?

25 A I think it was, like, six months. I'm not sure.

1 Q After your arrest did you enter into a consent or
2 an agreement with the District Attorney's Office for
3 cooperation?

4 A Yes.

5 MR. BIANCAVILLA: Objection.

6 THE COURT: Well, overruled.

7 MR. CHAMBERLAIN: Pardon me?

8 MR. BIANCAVILLA: Judge, I'm going to object.

9 He's mischaracterizing.

10 MR. CHAMBERLAIN: I'm going to object.

11 THE COURT: Excuse me, I rule on objections.

12 I don't want arguments in front of the jury.

13 Now, I permitted the answer to stand.

14 Mr. Biancavilla, on redirect you can ask her
15 whatever questions you feel are appropriate.

16 MR. CHAMBERLAIN: Thank you, Judge. I didn't
17 hear the answer, I heard Mr. Biancavilla.

18 THE COURT: Excuse me?

19 MR. CHAMBERLAIN: Can I hear the answer. I
20 didn't hear her answer.

21 THE COURT: Did the witness answer?

22 The answer was, yes, Mr. Chamberlain.

23 Read it back, please.

24 (Whereupon, the requested answer was read
25 back by the reporter.)

1 Q And you understand the purpose of that agreement
2 you entered into?

3 MR. BIANCAVILLA: Objection.

4 THE COURT: Well, if she understands the
5 agreement, I'll permit that.

6 MR. BIANCAVILLA: That wasn't the question,
7 Judge.

8 THE COURT: Well, the word "purpose" is kind
9 of a nebulous --

10 Q Let me withdraw the word "purpose."

11 Do you understand the agreement?

12 A Yes.

13 Q What's in it for you?

14 MR. BIANCAVILLA: Objection.

15 THE COURT: Overruled. Overruled.

16 A I don't understand what you are asking me.

17 Q You're cooperating with the district attorney,
18 what are you going to get for that cooperation?

19 MR. BIANCAVILLA: Objection. He's assuming
20 facts.

21 THE COURT: Actually, Mr. Chamberlain, you're
22 presupposing something. You have to ask her the
23 question first.

24 MR. KETOVER: Why don't we read the
25 agreement?

1 Q You signed a cooperation agreement, did you not,
2 ma'am, did you?

3 A I don't --

4 MR. KETOVER: Judge, at this point I have to
5 interject. That's not what she signed, Judge.

6 MR. CHAMBERLAIN: I object to his making --

7 THE COURT: Counsel --

8 MR. CHAMBERLAIN: In front of this jury.

9 THE COURT: Let me --

10 MR. CHAMBERLAIN: It's inappropriate.

11 THE COURT: Miss Quinn, do you understand the
12 question?

13 THE WITNESS: I don't really know --

14 THE COURT: That's okay. If you don't
15 understand the question, all you have to do is say so
16 and I'll have Mr. Chamberlain rephrase it.

17 MR. CHAMBERLAIN: If she wants time, Judge,
18 to consult with her counsel outside the presence of the
19 jury and then answer the question --

20 THE COURT: Mr. Chamberlain, please.

21 MR. BIANCAVILLA: It's a mischaracterization.
22 We did this on the record.

23 MR. CHAMBERLAIN: I object to these comments
24 in front of this jury, Judge.

25 THE COURT: Counsel, come forward again,

1 please.

2 (Whereupon, the following takes place at the
3 Bench, between the Court and Counsel:)

4 THE COURT: Yes, Mr. Biancavilla.

5 MR. BIANCAVILLA: So the record is clear, I
6 gave you a copy yesterday of the stipulation or the
7 proposed agreement.

8 THE COURT: Is that the only agreement?

9 MR. BIANCAVILLA: That is it. There's no
10 cooperation agreement. She didn't sign any.

11 MR. CHAMBERLAIN: I object to this.

12 THE COURT: This is -- excuse me.

13 THE COURT: Mr. Chamberlain, how can you
14 object to what the district attorney is telling us
15 outside the hearing of the jury?

16 MR. CHAMBERLAIN: Because the jury can hear
17 it.

18 THE COURT: The jury can not hear it, only if
19 you raise your voice.

20 MR. CHAMBERLAIN: I think they hear it.

21 THE COURT: Do not raise your voice.

22 Yes, Mr. Biancavilla?

23 MR. BIANCAVILLA: Mr. Chamberlain is well
24 aware, we made him well aware yesterday, that that is
25 the entire agreement. If he wants to question her

1 whether or not we promised her anything or anything of
2 that nature, I don't care. But for him to just say
3 what's in it for you, and you signed a cooperation
4 agreement, that's nonsense because there's no good
5 faith basis for asking that. He, again, is just
6 speculating.

7 MR. KETOVER: More to the point, Judge. In
8 my communication with Mr. Chamberlain yesterday when he
9 called me, we specifically discussed this. And I
10 specifically told him she's not getting out of it, that
11 there's no promises whatsoever.

12 THE COURT: Okay.

13 MR. KETOVER: No promises whatsoever. That's
14 the only agreement.

15 THE COURT: I understand that. What
16 Mr. Ketover tells you, you certainly don't have to take
17 as gospel.

18 MR. CHAMBERLAIN: As a matter of fact, I have
19 reason --

20 THE COURT: I'm not preventing you from
21 asking these questions. As a matter of fact, you
22 should ask these questions. You're entitled to.

23 MR. CHAMBERLAIN: Thank you, Judge. He
24 didn't want to tell me --

25 THE COURT: Excuse me, I'm talking. Remember

1 the rule, when I talk, you don't.

2 Now, I'm suggesting to you, ask your
3 questions in a proper manner. You have heard the
4 representation from the district attorney, that that
5 was the agreement. You can ask her if there was
6 another agreement, but that's it.

7 MR. CHAMBERLAIN: Judge, to start with, your
8 response to this gentleman's statement, I couldn't
9 even -- I had trouble getting out that she was under
10 indictment. He clearly did not want to provide any
11 information.

12 Now, with respect to Mr. Biancavilla's
13 statement, I don't know that that is the only
14 agreement. That's the agreement with respect to her
15 testifying here today. When somebody is arrested on
16 drug charges, it is common for them to enter into a
17 cooperation agreement with narcotics bureau of the
18 district attorney, which is what I asked her, and she
19 said yes. I'm entitled to probe that. I think -- and
20 the questions asked were directed toward that -- if it
21 wasn't a signed agreement, all she has to do is say no.

22 THE COURT: You can make it more specific and
23 ask her.

24 MR. CHAMBERLAIN: First of all --

25 THE COURT: She didn't understand the

1 question.

2 MR. BIANCAVILLA: That's exactly what I am
3 concerned about.

4 MR. CHAMBERLAIN: I think she did.

5 THE COURT: I'll let you ask it again. You
6 heard me explain it to her. If she doesn't understand
7 it, she will tell me.

8 MR. BIANCAVILLA: I'm not finished, Judge.

9 First of all, if there was a cooperation
10 agreement, I would be required to disclose it under the
11 law. He has no good faith basis to asking those
12 questions because I am required under the discovery
13 sections of the Criminal Procedure Law to disclose it.
14 He has no good face basis for asking that, and he's
15 impermissibly going into area. That's my point. The
16 CPL says I have to disclose if one is in existence, and
17 I'm saying it's not in existence.

18 MR. CHAMBERLAIN: Well, I think Mr. -- I
19 think he would like to testify. All I know is,
20 yesterday I was handed a short stipulation, nothing
21 about anything else. Common practice indicates --
22 common practice indicates that drug defendants enter
23 into cooperation agreements. I asked her that. And I
24 think I have a right to ask her that.

25 THE COURT: I did not stop you from asking

1 that. You know, I didn't think she understood the
2 question. I'm asking you to rephrase the question.

3 MR. CHAMBERLAIN: Can we her answer read
4 back? I think she understood the question. My
5 understanding --

6 THE COURT: I'm going to let you ask it again
7 at this point. Let's go forward.

8 MR. KETOVER: I'll bring her in, Judge.

9 (Whereupon, the following takes place in open
10 court:)

11 THE COURT: Mr. Chamberlain.

12 CROSS-EXAMINATION CONTINUED

13 BY MR. CHAMBERLAIN:

14 Q Miss Quinn, I asked you about a cooperation
15 agreement with the District Attorney's Office, that would be
16 the Narcotics Bureau. You're charged with sale of
17 narcotics, do you understand that?

18 MR. BIANCAVILLA: Objection to the form of
19 the question.

20 Q Do you understand the question I asked you
21 before?

22 MR. BIANCAVILLA: Objection.

23 THE COURT: Excuse me.

24 MR. CHAMBERLAIN: All right I'll withdraw it.

25 THE COURT: Sustained.

1 Q Miss Quinn, did you have an agreement with the
2 District Attorney's Office to cooperate in connection with
3 drug investigations after your arrest, yes or no?

4 A No.

5 Q So, when you answered yes before, you didn't
6 understand the question, is that correct?

7 A I was confused as to what you meant.

8 Q Were any of the people that were involved in the
9 matters that you were involved in regular customers of the
10 Downtown?

11 MR. BIANCAVILLA: Objection.

12 THE COURT: I'll permit that.

13 A No.

14 Q Either by customers, informants, targets of an
15 investigation, in any way involved?

16 THE COURT: How would she know that?

17 MR. BIANCAVILLA: I'm going to object.

18 MR. CHAMBERLAIN: If she knows.

19 MR. BIANCAVILLA: Judge, I object.

20 THE COURT: Well, ask another question.

21 I'm sustaining it as to form.

22 Q Miss Quinn, and shortly after this
23 incident -- you were aware of where John Kane lived, were
24 you not?

25 A Yes.

1 Q After this incident, and according to you, he was
2 a regular frequenter of the bars in that area, right?

3 A Yes.

4 Q Right after the murder did Mr. Kane leave the
5 scene?

6 MR. BIANCAVILLA: Objection.

7 THE COURT: Sustained.

8 Q After May of 2000 did you see Mr. Kane in the
9 neighborhood anymore?

10 MR. BIANCAVILLA: Objection.

11 MR. BIANCAVILLA: As to relevancy.

12 THE COURT: I'm not sure. Unless you can
13 tell me this is relevant, Mr. Chamberlain.

14 MR. CHAMBERLAIN: Think it will be connected
15 up.

16 THE COURT: I'll give you a little bit of
17 leeway.

18 MR. CHAMBERLAIN: Thank you.

19 THE COURT: Overruled.

20 A Can you repeat the question?

21 Q After May of 2000 was Mr. Kane still around in
22 that Farmingdale area?

23 MR. BIANCAVILLA: Objection.

24 THE COURT: This one is sustained.

25 Read the last one back.

3 THE COURT: I'll permit that.

4 A No, I don't remember seeing him around.

5 Q Have you been in contact with him since that
6 period of time?

7 A No.

Q Do you have any idea where he went?

9 MR. BIANCAVILLA: Objection.

10 THE COURT: Sustained.

11 MR. CHAMBERLAIN: Nothing further.

12 Thank you, Judge.

13 THE COURT: Redirect, Mr. Biancavilla?

14 MR. BIANCAVILLA: Yes, please. Just briefly,
15 Judge.

16 REDIRECT EXAMINATION

17 BY MR. BIANCAVILLA:

18 Q Miss Quinn, I'm going to show you what has been
19 offered into evidence as People's Exhibit number 8. I'm
20 going to ask you to please take one of these red dots and
21 place it in the approximate area where you saw Ruth Williams
22 and the defendant standing when you heard that argument,
23 please.

24 - (Whereupon, witness complies with request)

25 Q Thank you.

1 MR. BIANCAVILLA: May I display that for the
2 jury, Judge?

3 THE COURT: Yes.

4 THE COURT: Show it to Mr. Chamberlain first.

5 MR. BIANCAVILLA: Now displaying People's
6 Exhibit 8 for the jury.

7 Q Miss Quinn, my question is, is that the view that
8 you had of that little alcove from where you were standing
9 at your car?

10 A Do you mean the angle?

11 Q Yes. Is that the view that you had?

12 A Yeah.

13 Q Okay. Now, Defense Exhibit C. Take a look at
14 Defense Exhibit C. Is that the view that you had from where
15 you were standing when you observed Miss Williams and the
16 defendant?

17 A No.

18 Q Okay. Take a look at Exhibit B, Defense Exhibit
19 B. Is that the view that you had when you observed Miss
20 Williams and the defendant?

21 A No.

22 MR. BIANCAVILLA: Okay. Thank you.

23 Q Now, Mr. Chamberlain asked you a question
24 yesterday or read a question to you out of your grand jury
25 testimony on page 44. And he read you one question out of a

1 series of questions.

2 MR. CHAMBERLAIN: I'm going to object to
3 this, Judge. That's not proper.

4 THE COURT: I haven't heard a question yet.

5 MR. CHAMBERLAIN: I object to the preamble.

6 Let's hear the question.

7 Q Yesterday Mr. Chamberlain asked -- read to you
8 this question and read your answer. That was a question on
9 page 44 at line 18.

10 "QUESTION: I take it you did not get a good
11 observation of the face of the woman or the face of the
12 man?"

13 "ANSWER: No."

14 Q Do you remember him asking you that question?

15 A Yes.

16 Q Okay. Now, do you remember being asked these
17 questions and giving these answers on page 44 of your grand
18 jury testimony, starting on page 43 at line 23:

19 "QUESTION: Did you hear the man use the F
20 word?"

21 "ANSWER: Yes."

22 "QUESTION: The man that you saw, was he bald
23 headed man?"

24 "ANSWER: Yes."

25 "QUESTION: What can you tell us about the

1 stature?"

2 "ANSWER: He had the same stocky build of the
3 man that I saw with her earlier in the bar. Like, he
4 had, you know, big arms and, you know, I could tell he
5 had a shaved head."

6 "QUESTION: What can you tell us about the
7 woman?"

8 "I could see her hair.. The blonde hair.".

9 "QUESTION: Was the blonde hair consistent
10 with Ruth's hair?"

11 "ANSWER: Yes."

12 "Did it look like Ruth's hair?

13 "ANSWER: Yes."

14 "I take it you could not get a good
15 observation of the face of the woman or the face of the
16 man?"

17 "ANSWER: No."

18 "QUESTION: But the build of the man that you
19 observed, was it consistent with the man that you had
20 previously observed in Y.L. Childs?"

21 "Answer: Yes."

22 Q Do you remember being asked those questions and
23 giving those answers in the grand jury?

24 A Yes.

25 Q Okay. Now, you said on May 3rd that you viewed a

1 lineup, correct?

2 A Yes.

3 Q And take a look at People's Exhibit 4 in
4 evidence. Tell the jury, is that the lineup that you
5 viewed?

6 A Yes.

7 MR. BIANCAVILLA: Okay. May I display that
8 for the jury, please?

9 THE COURT: Yes.

10 (Whereupon, People's Exhibit 4 is placed on
11 the viewer and published to the sworn jury and
12 alternates.)

13 Q Now, is it fair to say that when you viewed this
14 lineup, the individuals in that lineup were in a seated
15 position?

16 A Yes.

17 Q You weren't able to see their bodies?

18 A Yes.

19 Q All you were able to see was basically five heads
20 popping out from on top of a white sheets?

21 A Yes.

22 Q So, you weren't able to see the stature of the
23 individual in addition to the heads, correct?

24 A Yes.

25 Q Did that affect your ability to identify the

1 subject?

2 A Yes.

3 Q Do you recall the next day you seeing a
4 newspaper?

5 A Yes.

6 Q And in that newspaper did you see a photograph of
7 Detective McHugh?

8 A Yes.

9 Q And did you -- did you see another individual
10 with Mr. McHugh in that photograph?

11 A Yes, I did.

12 Q And did you recognize that individual in that
13 photograph?

14 A Yes, I did.

15 Q And who did you recognize that individual to be?
16 Was that the same individual you saw at Y.L. Childs with
17 Ruth Williams?

18 A Yes.

19 MR. BIANCAVILLA: Thank you. I have no
20 further questions.

21 THE COURT: Mr. Chamberlain, any recross?

22 RECROSS-EXAMINATION

23 BY MR. CHAMBERLAIN:

24 Q You just heard a series of questions you were
25 asked in the grand jury regarding the description of the man

1 you saw outside of Captain Andy's, is that correct?

2 A Yes.

3 Q Was there anywhere that you indicated to the
4 grand jury that you -- when you were asked about it, did you
5 ever say you saw a man with tattoos?

6 A Yes.

7 MR. BIANCAVILLA: Objection.

8 THE COURT: I'll permit that.

9 MR. BIANCAVILLA: Fine, withdrawn.

10 Q Question:

11 MR. CHAMBERLAIN: "The man" -- top of page
12 44:

13 "QUESTION: The man that you saw was a bald
14 man?"

15 MR. BIANCAVILLA: One moment,
16 Mr. Chamberlain.

17 MR. CHAMBERLAIN: Page 44, top of the page.

18 THE COURT: Line number?

19 MR. CHAMBERLAIN: Line 3, Judge.

20 THE COURT: Thank you.

21 MR. CHAMBERLAIN: "The man that you saw was a
22 bald headed man?"

23 "ANSWER: Yes."

24 "What can you tell us about the stature?"

25 "He had the same stocky build of the man I

1 saw with her earlier in the bar. Like, he had, you
2 know, big arms, you know. And, you know, I could tell
3 he had a shaved head."

4 "What could you tell us about the woman?"

5 Q Was there anything in that description where you
6 gave tattoos --

7 A No.

8 Q To the grand jury? Were you -- you were wearing
9 a coat that night. You said it was cold, right?

10 MR. BIANCAVILLA: Objection. Beyond the
11 scope of my redirect.

12 THE COURT: Beyond the scope, but I'll permit
13 it.

14 Overruled.

15 Q You didn't -- basically, what you told the grand
16 jury was, you saw somebody with a certain build that was
17 consistent with what you had seen before?

18 MR. BIANCAVILLA: Objection.

19 THE COURT: That is sustained.

20 Q "Question" -- were you asked this question and
21 GAVE this answer.

22 "But the build" --

23 MR. BIANCAVILLA: What page, Mr. Chamberlain?

24 MR. CHAMBERLAIN: Same page, bottom of page

25 22.

1 " But the build of the man that you observed,
2 was it consistent with the man that you had previously
3 observed at Y.L. Childs?"

4 "Answer: Yes."

5 Q Now, in effect, you told the grand jury you
6 couldn't positively identify those persons, isn't that a
7 fact?

8 MR. BIANCAVILLA: Objection.

9 THE COURT: Sustained.

10 Q These questions by the District Attorney,
11 Mr. Dempsey, in the grand jury, were after you had failed to
12 identify him at a lineup, isn't that a fact?

13 MR. BIANCAVILLA: Objection.

14 THE COURT: I'll permit that.

15 A Yes.

16 Q So, they were an attempt to explain --

17 MR. BIANCAVILLA: Oh, come on.

18 Q To the grand jury why you hadn't been able to
19 identify this man at a line?

20 MR. BIANCAVILLA: Objection.

21 THE COURT: Sustained.

22 Q Miss Quinn --

23 MR. CHAMBERLAIN: Can I have People's 8, the
24 photograph, she identified the view.

25 Would you put that on, please?

1 MR. BIANCAVILLA: Sure.

2 (Whereupon, People's Exhibit 8 is placed on
3 the viewer.)

4 Q Now, you say this is the view you had in this
5 photograph, is that right?

6 THE COURT: Miss Quinn, can you see it?

7 THE WITNESS: Yes.

8 THE COURT: Miss Quinn, it might be easier if
9 you'd go into the well.

10 MR. BIANCAVILLA: Why don't we show her the
11 photograph?

12 THE COURT: Let the court officer show you
13 the photograph.

14 Then you can display it, Mr. Chamberlain.

15 (Whereupon, People's Exhibit 8 is handed to
16 the witness.)

17 (Whereupon, People's Exhibit 8 is placed on
18 the viewer.)

19 Q That photograph has no relationship to where you
20 were standing when you had this view, is that correct?

21 A Yes.

22 Q And your testimony is that you were standing
23 somewhere between Captain Andy's and the Downtown, is that
24 correct?

25 A Yes.

1 Q And closer to the down -- the back of the
2 Downtown?

3 A Well, I said I was, like, in the middle.

4 Q Like in the middle. At the grand jury you said
5 closer to Downtown?

6 MR. BIANCAVILLA: Objection.

7 THE COURT: Sustained.

8 It's not proper questioning, Mr. Chamberlain.

9 Q The X -- can I show you Defendant's B for
10 identification.

11 MR. CHAMBERLAIN: Put that on. Show it to
12 her first.

13 (Whereupon, the referred to exhibit is handed
14 to the witness and then placed on the viewer.)

15 Q And the X you put there is approximately where
16 the car that you were standing alongside was parked, right?

17 A Yes.

18 Q And that X shows the rear of that vehicle. And
19 you were alongside, by the driver's door, is that right?

20 A Yes.

21 MR. CHAMBERLAIN: Can you put that up on the
22 screen?

23 (Whereupon, the referred to exhibit is placed
24 on the viewer.)

25 Q And would that photograph represent the

1 approximate view you had from that position of what you
2 claim you saw outside Captain Andy's?

3 A No.

4 Q Approximately how far away from Captain Andy's
5 and these people were you --

6 MR. BIANCAVILLA: Judge, I'm going to object.

7 We have been through this already. It's improper
8 redirect.

9 THE COURT: Mr. Chamberlain, you are
10 addressing areas that were not covered on redirect.

11 MR. CHAMBERLAIN: Well, I think it was
12 inferentially covered, Judge. I will let it go.

13 THE COURT: I did not stop you. When you say
14 you're finished, I will ask Mr. Biancavilla if there's
15 anything further.

16 MR. BIANCAVILLA: I have one final question
17 for you, Miss Quinn.

18 REDIRECT EXAMINATION

19 BY MR. BIANCAVILLA:

20 Q Were there any other big bald headed men with
21 tattoos in Y.L. Childs that morning when you were there?

22 A No.

23 MR. BIANCAVILLA: Thank you.

24 THE COURT: Anything further,
25 Mr. Chamberlain?

1 RECROSS EXAMINATION

2 BY MR. CHAMBERLAIN:

3 Q If I tell you that a measurement --

4 THE COURT: Mr. Chamberlain, you see you can
5 only address the areas that were immediately addressed
6 by the prosecutor.

7 MR. CHAMBERLAIN: He addressed the view area.

8 THE COURT: He said he asked one question.

9 He asked if there are any other bald headed men in Y.L.
10 Childs that evening.11 MR. CHAMBERLAIN: Nothing further. Thank
12 you.13 THE COURT: Anything further,
14 Mr. Biancavilla?

15 MR. CHAMBERLAIN: No, Judge.

16 MR. BIANCAVILLA: No, Judge.

17 THE COURT: You may step down. Thank you.

18 (WITNESS EXCUSED)

19 THE COURT: Counsel, approach the bench
20 please.21 (Whereupon, the following takes place at the
22 Bench, off the record, between the Court and Counsel)23 THE COURT: Mr. Biancavilla, call your next
24 witness please.

25 MR. BIANCAVILLA: Sven Bost.

1 S V E N B O S T, called as a witness by and on behalf of
2 the People, having been first duly sworn, testified as
3 follows:

4 THE COURT OFFICER: In a loud voice would you
5 give your full name, spelling your last name and County
6 of residence.

7 THE WITNESS: Sven Bost, B-O-S-T. In Nassau
8 County.

9 THE COURT OFFICER: Thank you.

10 THE WITNESS: I'm hard of hearing today.

11 MR. BIANCAVILLA: May I inquire, your Honor?

12 THE COURT: Yes, you may.

13 DIRECT EXAMINATION

14 BY MR. BIANCAVILLA:

15 Q Mr. Bost, good afternoon.

16 A Good afternoon.

17 Q I know we're right on the cusp, good morning.

18 Thank you for being with us today. Thank you for being so
19 patient.

20 You are the owner and landlord of the building in
21 which Captain Andy's is located in?

22 A Right.

23 Q And how long have you been owner of that
24 building?

25 A November was forty years.

1 Q And what is Captain Andy's?

2 A It's a seafood continental restaurant.

3 Q How long have you had that restaurant?

4 A Forty years in November.

5 Q You're the owner and chef?

6 A Right.

7 Q And is there an apartment on top of Captain
8 Andy's?

9 A Right.

10 Q How long has the apartment been there?

11 A So long as I have been there actually.

12 Q Okay. Do you know the victim in this case, Ruth
13 Williams?

14 A Right.

15 Q Do you know her?

16 A Yes.

17 Q And how long did you know Ruth Williams?

18 A Probably about ten, eleven years, I guess.

19 Q And where did you know Ruth Williams from?

20 A She used to work for a florist in town that I did
21 business with.

22 Q And did there come a time when Miss Williams
23 rented the apartment above Captain Andy's?

24 A Yes.

25 Q Could you tell the jury when she first became a

1 tenant?

2 A It must have been 1992. I'm not sure what month
3 though, you know.

4 Q Now, would you characterize Miss Williams as a
5 good tenant?

6 A I can't hear.

7 Q Would you characterize Miss Williams as a good
8 tenant?

9 A Yes.

10 MR. CHAMBERLAIN: Objection, Judge.

11 Q Did she pay her rent on time?

12 MR. CHAMBERLAIN: Objection.

13 A She was very punctual actually.

14 THE COURT: That's all right, overruled. You
15 can answer that.

16 A Very punctual. Actually, a few days ahead of
17 time. Very nice and neat.

18 Q Okay. Now, Mr. Bost, I'm going to show you what
19 is in evidence as grand jury --

20 THE COURT: People's --

21 MR. BIANCAVILLA: I'm sorry.

22 Q People's Exhibit 8. Take a look at that
23 photograph. Do you recognize that photograph?

24 A That's the rear entrance to the apartment and to
25 the kitchen area.

1 Q Of your restaurant?

2 A Right.

3 Q Okay. Now, there's a flood light above that rear
4 door there?

5 A Right.

6 Q Could you describe what type of flood light that
7 is to the jury please?

8 A It's like a high intensity light. It's no longer
9 working. We had a light put up in the light pole, it comes
10 on with sensor light.

11 Q Was it working on April 11th of 2000?

12 A I believe so, yes.

13 Q And would it light up that back area?

14 A Right. It was working in conjunction with the
15 light on top then. It was -- it has since been
16 disconnected.

17 Q Thank you. May I have that photograph back?

18 The open door in this particular photograph,
19 would that have been the entrance to the apartment above
20 Captain Andy's?

21 A Yes. Yes.

22 Q That was the apartment that was rented by Ruth
23 Williams?

24 A Yes.

25 Q Okay. Now, on Thursday, April 13th, did there

1 come a time when you called the Nassau County Police
2 Department?

3 A Yes.

4 Q What was the purpose of your telephone call?

5 A They had -- my wife had gotten a phone call from
6 Bethpage Florist where Miss Williams worked. And they were
7 concerned she hadn't shown up for work. And they wanted us
8 to go up and see if she was sick or something, you know.

9 Q And did there come a time when you called the
10 police?

11 A Yes. I said I didn't want to pry into anybody's
12 business. I was back and forth to my house that particular
13 day. And my daughter was working. She said, why don't you
14 go up and see if she had a stroke or something. So --

15 Q Did you go up to the apartment?

16 A I went down and I called on the telephone first.
17 And there was no answer. So, my daughter kept on saying,
18 why don't you go up.

19 Q When you say there was no answer, did an
20 answering machine pick up or was there no answer?

21 A There was no answer. Maybe I didn't let it ring
22 long enough, you know.

23 Q What did you do then?

24 A My daughter kept on harping, I should go up, you
25 know. So, I went up and I knocked on the door and I

1 screamed in, hey, Ruthie.

2 Q Did you get any response?

3 A There was no answer. So, I went down again. And
4 so she said, why don't you go in the apartment, you have the
5 key. No, I said, it's none of my business I said. So, she
6 was on the phone with my son-in-law. And he used to work
7 for the legislature. I said, why don't you ask my
8 son-in-law what to do.

9 Q What did you ultimately wind up doing, Mr. Bost?

10 A He said call the police and let them decide.

11 Q Did you do that?

12 A That's what I did at that point.

13 Q Did there come a time when a police officer came
14 to Captain Andy's?

15 A Yes.

16 Q Do you remember the police officer's name?

17 A It was a lady officer. I don't recall the name.
18 I don't think I got the name actually.

19 Q Do you remember what time she got there?

20 A Must have been in the evening, maybe six, seven
21 o'clock, something like that.

22 Q Was it before or after you closed the restaurant?

23 A It was before we closed.

24 Q Okay. What did you do?

25 A She said -- I told her the story behind it. So,

1 she said, we have to go up and see. So, I tried to open the
2 door. I haven't been up there for years. Like, you know,
3 she took care of the apartment, painted it.

4 Q Which doors were locked?

5 A Well, the entrance door downstairs was locked.
6 So, I opened that.

7 Q That's the door that is shown in the picture?

8 A Right.

9 Q That was locked?

10 A That was locked. So, I opened that. When we
11 come upstairs I am looking for a key. I have about maybe
12 twenty keys on the key thing. So, I didn't know which key.
13 So, I tried one key, it fitted a dead bolt. And it seemed
14 like the dead bolt was open, you know. Then I have to find
15 the key for the lower part on the door handle. And I tried
16 all the keys, and it was kind of dark.

17 Q What did you do then?

18 A I couldn't find the key. So, we couldn't open
19 the door. I told the officer, why don't we go out on the
20 roof. It's a long hallway. There's a door leading to the
21 roof. So, I said, why don't we go on the roof and take a
22 look through the kitchen window.

23 Q Did you do that?

24 A That's what we did. And the light was on and a
25 jacket was hanging on the chair and her two cats were on the

1 floor. I told the officer to call us on the parking lot, I
2 said, maybe she went out for a moment or whatever.

3 Q What happened?

4 A The officer said, well, we have to get in there.
5 So, at that point we went back to the door again. And the
6 officer put the flashlight on the lock and I looked in the
7 flashlight and I found the right key. And we went in and
8 the officer went in first. And the cats were still in the
9 kitchen there. And so --

10 Q What room did you walk into?

11 A Into the kitchen area. And the officer went in
12 to the middle room, which is the bedroom. Oh, my God, she
13 said. Ruth was laying on the floor there. She's a goner
14 she says. So, at that point she asked me if I had a cell
15 phone. No, I don't have a cell phone. So, she said, could
16 you go downstairs, there's an officer coming on Main Street
17 and ask him to bring a cell phone up.

18 Q Did you do that?

19 A That's what I proceeded to do. And then I
20 heard -- I was halfway in the hallway, I heard the officer
21 saying something. So, I went back in again, and then said
22 she noticed something else. She was -- she had gone into
23 the bedroom. And --

24 Q What did you do at that point?

25 A I peeked behind her. You know, she was sort of

1 standing half in the doorway and half in the bedroom.

2 Q What did you see?

3 A I saw Ruth laying on the floor next to the bed.

4 And so I peeked around and I saw it was, like, a cord around
5 her neck and it was blood coming from the nose and from the
6 mouth. I could see her face.

7 Q What did you do then?

8 A The officer told me to go down again and get the
9 cell phone. So, I proceeded, I went down and I met the
10 officer on the street and I asked him if he had a cell
11 phone, to bring it up. So, I went up with the officer. But
12 that's all I -- they sort of wanted to get rid of me at that
13 point, so I went back down again. And that was then there.

14 MR. BIANCAVILLA: Thank you very much. I
15 have nothing further for Mr. Bost.

16 THE COURT: Mr. Chamberlain.

17 CROSS-EXAMINATION.

18 BY MR. CHAMBERLAIN:

19 Q Mr. Bost, just a couple of questions.

20 The door upstairs was -- there are two locks, one
21 was locked, one wasn't you said?

22 A Right. The dead bolt lock wasn't locked. But the
23 lock on the knob, you know, was locked.

24 Q Could you describe --

25 MR. CHAMBERLAIN: Thank very much.

1 Q Can you describe for me and the jury the path
2 from the entrance door to the apartment in the back and how
3 you get from there to the -- to the back door of the
4 apartment?

5 A It's a long hallway that leads from the picture
6 that was shown.

7 Q So, first you go -- let say you are going --

8 A You go up a staircase. It's about -- I used to
9 live there, seven, eight years -- it was eighteen or twenty
10 steps.

11 Q Okay. Then you get to the top of the steps and
12 you turn right?

13 A Then it's a long hallway. At the end of the
14 hallway is a doorway that goes up to the roof area.

15 Q Okay. Would you say a long hallway --

16 A It's about, well, it's the length of the kitchen
17 area. It's about, I would, say twenty feet.

18 Q And that's at a bend. As you get to the top of
19 the stairs you turn right?

20 A No. You go straight.

21 Q You go straight. You go to the top of the stairs
22 and go straight?

23 A Long, right.

24 Q To the apartment?

25 A It's a four foot hallway. Long hallway.

1 MR. CHAMBERLAIN: Thank you very much,

2 Mr. Bost. I have no nothing further.

3 THE COURT: Mr. Biancavilla?

4 MR. BIANCAVILLA: Nothing further.

5 THE COURT: Thank you, Mr. Bost. You are
6 excused.

7 (WITNESS EXCUSED)

8 THE COURT: Ladies and gentlemen, we'll
9 adjourn at this point. Be back at two o'clock. Do not
10 discuss the case among yourselves or with anyone else.
11 Do not form or express any opinions until the entire
12 case is completed. Do not read or listen to accounts
13 of the case, should there be any ed in the media. Do
14 not visit or view any premise or premises mentioned.
15 You are not to permit any party to discuss this case
16 with you. You are promptly to report to the Court any
17 violation thereof.

18 Have a nice lunch we'll see you at two.

19 (Whereupon, the sworn jury and alternates
20 leave the courtroom)

21 THE COURT: Counsel, see you at two o'clock.

22 MR. BIANCAVILLA: Thanks, Judge.

23 MR. CHAMBERLAIN: We have four police
24 witnesses this afternoon and we will be finished?

25 THE COURT: Speak to Mr. Biancavilla. I

1 don't know.

2 (Whereupon, there is a luncheon recess taken
3 in the proceedings. The trial is adjourned until 2:00
4 p.m.)

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1 A F T E R N O O N S E S S I O N

2 THE COURT OFFICER: Jury entering.

3 THE COURT: One moment, please.

4 MR. CHAMBERLAIN: I understand we are --

5 THE CLERK: Case on trial continues. All
6 parties are present. Jury is not present at this time.

7 Are the People ready?

8 MR. BIANCAVILLA: Ready.

9 THE CLERK: The defendant ready?

10 MR. CHAMBERLAIN: Defendant ready.

11 THE COURT: Yes, Mr. Chamberlain.

12 MR. CHAMBERLAIN: Judge, I understand we were
13 starting with Detective Downes who is from the crime
14 detection.

15 THE COURT: Yes.

16 MR. CHAMBERLAIN: There are certain
17 photographs, quite a few exhibits in the grand jury
18 that we got a transcript, we don't have the exhibits.
19 I'm going to ask for exhibits, 3 through 8 now so --20 MR. BIANCAVILLA: You were shown all the
21 photographs.22 MR. CHAMBERLAIN: I would like to know which
23 are 3 through 8.

24 MR. BIANCAVILLA: Mr. Chamberlain -- Judge --

25 MR. CHAMBERLAIN: Show me the photographs.

1 MR. BIANCAVILLA: We're past the grand jury
2 stage at this point.

3 THE COURT: Between direct and cross I will
4 give you an opportunity to look at the photographs if
5 they're not put in evidence now.

6 MR. BIANCAVILLA: I will put a lot of
7 photographs into evidence. He's already looked at the
8 crime scene photographs three times already, so you're
9 aware of it.

10 THE COURT: Did you give Mr. Chamberlain an
11 opportunity to make copies?

12 MR. BIANCAVILLA: Absolutely. I had him go
13 through the book twice. In fact, we did produce
14 certain copies for him.

15 MR. CHAMBERLAIN: I'm trying to identify the
16 photographs. I just have gotten the Rosario material.
17 The grand jury testimony refers to certain numbered
18 photographs. The one I saw did not indicate -- there
19 was no way I could identify.

20 THE COURT: What you should have done is tell
21 me at 12:30, I could have asked you and Mr. Biancavilla
22 to get together over lunch.

23 However, at this juncture what I'm going to
24 do, on our next break I will ask Mr. Biancavilla to
25 show you which photographs are --

1 MR. BIANCAVILLA: To be perfectly honest with
2 you, I have no idea. I don't have them here. I am
3 working off of another set of photographs I had
4 duplicated.

5 MR. CHAMBERLAIN: That's the problem.

6 MR. BIANCAVILLA: He's had two years.

7 MR. CHAMBERLAIN: Don't interrupt.

8 MR. BIANCAVILLA: He's viewed all of the
9 exhibits, okay. This is nonsense.

10 MR. CHAMBERLAIN: This is --

11 THE COURT: Mr. Chamberlain.

12 MR. CHAMBERLAIN: Completely inaccurate. We
13 just got photographs a week or two ago after requesting
14 them two years ago.

15 MR. BIANCAVILLA: Please, it's nonsense.

16 MR. CHAMBERLAIN: The point is, they didn't
17 have numbers. I'm trying to identify the photographs
18 that were referred to as exhibits in the grand jury
19 testimony on the Rosario material I got just a few days
20 ago. So, what I'm asking for is approximately six
21 photographs.

22 MR. BIANCAVILLA: I don't know what those
23 photographs are, Judge. I don't have the grand jury
24 exhibits here.

25 THE COURT: I will ask -- at the break I will

1 ask Mr. Biancavilla just to show you the photographs.
2 At that point if there's additional applications you
3 can make them.

4 THE COURT OFFICER: Jury entering.

5 (Whereupon, the sworn jury and alternates
6 enter the courtroom)

7 THE CLERK: Both sides stipulate that all
8 jurors are present and seated properly?

9 MR. BIANCAVILLA: Yes.

10 MR. CHAMBERLAIN: Yes.

11 THE COURT: Good afternoon, ladies and
12 gentlemen. We're ready to continue with the trial now.

13 Mr. Biancavilla, will you call your next
14 witness.

15 MR. BIANCAVILLA: Detective Dennis Downes.

16 D E N N I S D O W N E S, Detective, called as a witness
17 by and on behalf of the People, having been first duly
18 sworn, testified as follows:

19 THE CLERK: Thank you. Be seated.

20 THE COURT OFFICER: In a loud voice would you
21 give your full name, spelling your last name, shield
22 number and present command.

23 THE WITNESS: Detective Dennis Downes,
24 D-O-W-N-E-S. Shield number is 349. I'm a Detective
25 assigned to the Crime Scene Search Section of the

1 Nassau County Police Department.

2 THE COURT: You may inquire, Mr. Biancavilla.

3 MR. BIANCAVILLA: Thank you, Judge.

4 DIRECT EXAMINATION

5 BY MR. BIANCAVILLA:

6 Q Good afternoon, Detective.

7 A Good afternoon.

8 Q Could you tell the jury how long you have been a
9 member of the Nassau County Police Department?

10 A I've been a member of the police department for
11 fifteen years.

12 Q And would you explain to them your duties and
13 responsibilities as a member of the Crime Scene Search
14 Section of the Nassau County Police Department?

15 A Yes. I have been assigned to the Crime Scene
16 Search Section for eleven years.

17 As a detective assigned to Crime Scene, my duties
18 and responsibilities include responding to major crime
19 scenes throughout Nassau County to photograph, collect, and
20 document physical evidence at the Crime Scene.

21 Q Now, were you working on Thursday, April 13th,
22 2000?

23 A Yes, I was.

24 Q And did there come a time when you were asked to
25 respond to an apartment located at 196 Main Street in

1 Farmingdale?

2 A Yes, I was.

3 Q And when was it that you received that
4 assignment?

5 A I received that assignment at approximately ten
6 p.m. at night.

7 Q What time did you arrive at the location?

8 A I arrived at that location an hour later, at
9 approximately eleven p.m..

10 MR. BIANCAVILLA: Judge, I would ask that be
11 marked as People's Exhibit 9 for identification.

12 THE COURT: Okay.

13 (Whereupon, the referred to item is received
14 and marked People's Exhibit 9 for identification as
15 instructed.)

16 MR. BIANCAVILLA: Show it to the witness,
17 please.

18 Q Detective, you're being shown what is marked as
19 People's 9 for identification. Do you recognize that?

20 A Yes, I do.

21 Q What do you recognize that to be?

22 A This is a digital photograph taken from a
23 satellite light and the picture shows the general area of
24 where I responded to that night.

25 Q 196 Main Street in Farmingdale?

1 A That's correct.

2 Q And is that digital satellite generated
3 photograph fairly and accurately depict that particular area
4 as it existed on April 13th of the year 2000?

5 A Yes, it does.

6 MR. BIANCAVILLA: Judge, we would offer that
7 at this time.

8 THE COURT: Please show it to

9 Mr. Chamberlain.

10 MR. CHAMBERLAIN: No objection, your Honor.

11 THE COURT: Mark it in evidence.

12 (Whereupon, the referred to item previously
13 marked for identification is received and marked
14 People's Exhibit 9 in evidence by the reporter as
15 instructed)

16 MR. BIANCAVILLA: Judge, with the Court's
17 permission, I ask it be set up on the easel and
18 displayed for the jury?

19 THE COURT: Yes, we'll do that.

20 (Whereupon, People's Exhibit 9 is placed on
21 the easel for the jury's viewing)

22 Q Now, Detective, I'm going to ask that you take
23 these stickers and please take a yellow one and just write
24 the address 196 Main Street. And then we'll have you walk
25 over to the map and put the location you responded to.

1 Could you please write on the map the location
2 where 196 is located?

3 (Whereupon, witness leaves the witness
4 stand.)

5 A This is Main Street, which is a road that runs
6 north and south. The brown shaded area represents
7 buildings, commercial buildings, in that location. The
8 yellow sticker will represent 196, the front of 196 Main
9 Street.

10 Q When you responded to that location, you were
11 directed to respond to an apartment at 196 Main Street?

12 A Yes, I was.

13 Q Where was the entrance to that apartment?

14 A The entrance to that apartment was on the rear of
15 196 Main Street, where there's offset boxes. This was a
16 door leading up to an apartment that was above a restaurant
17 called Captain Andy's.

18 Q Would you take that yellow arrow and point it
19 toward where that door is.

20 A That little offset box there in the brown shaded
21 area would represent the entrance to that apartment.

22 Q You could be seated again. Thank you, Detective.

23 (Whereupon, witness resumes his seat in the
24 witness stand.)

25 Q Now, Detective, when you arrived at this

1 particular crime scene, what was the first thing that you
2 did?

3 A When I arrived to the crime scene with my police
4 van full of equipment. I was dressed in a police uniform.
5 And the first thing I did was meet with other detectives
6 that were at that scene and other police officers that
7 responded to that scene to speak with them and get a general
8 overview of what the scene represented and what was upstairs
9 in the apartment.

10 Q And after you had that conversation what did you
11 do?

12 A What I did was, I first walked into the apartment
13 just to look over the apartment and I observed a deceased
14 woman in a bedroom at that location in her late forties. I
15 looked around carefully for evidence, potential evidence,
16 that I was going to videotape, photograph and later on
17 collect.

18 After I looked around the apartment carefully,
19 not contaminating any evidence, I went back to the crime
20 scene van, got a video camera together and with the
21 assistance of another detective from crime scene I went on
22 to videotape the apartment, the areas in the apartment, and
23 specifically the general area where the deceased woman, Ruth
24 Williams, now known to me, was lying.

25 MR. BIANCAVILLA: Judge, I ask this be marked

1 as People's Exhibit 10 for identification.

2 (Whereupon, the referred to item is received
3 and marked People's Exhibit 10 for identification by
4 the reporter as instructed.)

5 THE COURT OFFICER: People's 10 for
6 identification.

7 Q Detective, you are being shown what has been
8 marked as People's 10 for identification. Do you recognize
9 that?

10 A Yes, I do.

11 Q What do you recognize that to be?

12 A This is the case that holds the video that I took
13 that night at 196 Main Street.

14 Q Is that the original video you used?

15 A Yes, it is. The box on the outside contains my
16 crime scene evidence label with my initials, the evidence
17 item number 36, the date and the homicide number attached to
18 it.

19 Q And since April 13th of 2000, have you viewed
20 that video?

21 A Yes, I have.

22 Q When was the last time you viewed it?

23 A I viewed this video on May 3rd, 2002 at 1:30 p.m.
24 in the afternoon.

25 Q Is that video fairly and accurately depict the

1 crime scene as it existed when you arrived at 196 Main
2 Street on April 13th of 2000?

3 A Yes, it does.

4 MR. BIANCAVILLA: We would offer that.

5 THE COURT: Any objection, Mr. Chamberlain?

6 MR. CHAMBERLAIN: May I just look at it,
7 Judge?

8 THE COURT: Of course.

9 VOIR DIRE EXAMINATION

10 BY MR. CHAMBERLAIN:

11 Q Has this tape been out of your possession?

12 A Yes. That tape was submitted as evidence and out
13 of my possession, yes.

14 Q It was out of your possession?

15 A Yes.

16 Q Do you know where it was during that period of
17 time?

18 A It was over in the Homicide Squad.

19 Q Was it sealed at that time?

20 A Yes, it was. The evidence tape is on there.

21 Q The evidence tape is on here. But that is not a
22 sealing tape, is that right?

23 A No, it's not.

24 Q So, what I'm asking, was this tape container
25 sealed?

1 A I have to look at it again. No, this portion was
2 not sealed.

3 Q Detective, did you view that tape at the time it
4 was taken?

5 A After I -- after I took the video, that night I
6 did view it so that I knew for sure that the video actually
7 did come out.

8 Q And you viewed it again you said on May 3rd,
9 2000, just a few days ago?

10 A Yes, I did.

11 Q And as far as -- as the best you can tell, that
12 was the same tape you viewed back then? Is there any
13 changes, identical tape?

14 A It's identical tape.

15 MR. CHAMBERLAIN: I have no further
16 objection -- no questions. No objection.

17 THE COURT: Mark it in evidence.

18 THE COURT OFFICER: People's 10 received in
19 evidence.

20 (Whereupon, the referred to item previously
21 marked for identification is received and marked
22 People's Exhibit 10 in evidence by the reporter as
23 instructed)

24 MR. BIANCAVILLA: Judge, at this time I would
25 like to display that for the jury and have Detective

1 Downes describe to the jury what they're observing.

2 THE COURT: Yes. Detective, you can step
3 down to the well.

4 We'll have the lights turned off so the jury
5 can see it.

6 (Whereupon, the witness leaves the witness
7 stand.)

8 A This is just the cover sheet that shows the date,
9 where I am, and the case number that is assigned.

10 This is a video of the rear of 196. That's the
11 back entrance to the restaurant of Captain Andy's. This is
12 a metal door leading to the apartment above Captain Andy's.
13 I'm showing you the video that the lock is intact on the
14 door knob. That there was no forced entry.

15 This is along the five stairs that leads up to a
16 hallway that leads up to the door of the apartment. So, I'm
17 now walking up the flight of stairs.

18 I'm now in a hallway, a very narrow hallway, that
19 will lead to the entrance door to the apartment at 196. I'm
20 showing some windows in the hallway. None of the windows
21 had any signs of forced entry. In the hallway there was
22 some cat transporting boxes and some charcoal and there was
23 another door on the north side of that hallway that led to a
24 rooftop where there was a jacuzzi.

25 Now, here is the door to the actual apartment at

1 196, Ruth Williams' apartment. And I'm showing some papers
2 on the ground. There's a small table in the kitchen. A
3 small eat-in kitchen. There's a dungaree jacket. There's a
4 photo album. There is a Budweiser bottle of open beer.
5 There was also a wine glass, assorted papers on the counter.
6 The kitchen was intact. There appeared to be no sort of
7 ransacking of the kitchen or any area of the apartment.

8 These are items on the kitchen table. There was
9 a candle, a glass with some wine, an ashtray. There was a
10 song on a piece of paper and a photo album on top of the
11 kitchen table. I'm just taking a close-up of the song and
12 some of the words on that song. The Budweiser bottle of
13 beer.

14 Ruth Williams lying on the floor next to her bed
15 in her living room. She is in overalls, a long T-shirt.
16 The beads to her bedroom. Everything was intact. Her bed
17 was still intact, it wasn't a mess. Everything seemed like
18 it was in order.

19 This is Ruth Williams. Her hand had a lot of
20 discoloring. Her face had a lot of redness and discoloring.
21 There was blood coming out of her nose. Around the neck of
22 Ruth Williams was a black telephone type cord. Here's her
23 hand. There were no injuries on her hand. No signs of any
24 sort of defensive wounds. There was a lot of discoloring to
25 her skin in her legs, face and hand. Here in the video I'm

1 getting a better close-up of blood around her face. The
2 black cord is tied tightly around her neck with a knot also.
3 She had her jewelry on. The cord goes on the back of her
4 hair, not underneath her hair.

5 This is her bedroom. Pillow kisses intact.
6 Comforter intact and clothes hanging from the canopy on her
7 bed. Hall in order, nothing knocked down. Her little cat
8 box house. Some of the furnishings in the bedroom. There's
9 a window in her bedroom. There is also a desk with a
10 computer. Still, the cover on. On the floor here is a
11 telephone receiver and answering machine, one piece. That
12 is on the floor in the bedroom of Ruth Williams. These are
13 some of the wires attached to the telephone answering
14 machine that had been pulled out of the wall just on the
15 other side of the telephone answering machine, just on the
16 other side of this wall. Those are wires attached to the
17 computer. Those wires are all still attached to their
18 corresponding jacks, nothing was pulled out. This is a
19 close-up of the end of the wires on that answering machine.
20 Again, I'm showing the wires to the computer, that all those
21 wires are all intact, that they haven't been ripped out of
22 the wall.

23 I have now walked through the bedroom, now in the
24 living room of the apartment. And just on the other side of
25 the wall I'm videotaping a phone jack that has some damage

1 to it. And this table appeared to be the table where the
2 answering machine was on, and that it had been ripped out of
3 the wall. There is damage to the telephone jack. There are
4 wires that have become disconnected. There's some
5 fracturing of the plastic. I'm now panning around the
6 living room of the apartment, showing that pillows are still
7 in order. There's a jacket on the couch. Behind the couch
8 there was some candy wrappers. A Hershey's box where some
9 of the candy came from. This is a window in the apartment.
10 Vertical blinds are half in place. And if you were looking
11 out that window, you would be looking on to Main Street.
12 And this is the entertainment section in the living room.
13 And here there are some tapes and CDs. Everything seemed to
14 be in order. There was no ransacking. There were no
15 drawers pulled out. There was no clothes or jewelry boxes
16 thrown about the apartment.

17 Again, the video shows the answering machine on
18 the floor with the attached wires. The canopy bed. No
19 drawers pulled out. Everything in order. Ruth Williams
20 lying on the side of her bed. Her arm is twisted.

21 I'm walking back now into the kitchen. There's
22 an ashtray, wine glass, Budweiser bottle, photo album, keys,
23 papers on the floor, papers and a bill on the counter, paper
24 with some writing on the counter. This is the cabinet above
25 the stove. Those doors were open.

1 This is the hallway leading to the end of the
2 apartment. This is the bathroom. Just showing the lock on
3 the interior portion of the door to the apartment, that
4 there was no trauma to it. The bathroom. The toilet seat
5 in the upright position. Everything seemed to be in order
6 in the bathroom. There are clothes still hanging. There's
7 a window in the bathroom, also that there was no forced
8 entry to. Toilet seat in the upright position. Again, no
9 damage to the door knob or the lock.

10 That's looking westbound from the entrance of the
11 apartment. The long narrow hallway. Some items in the
12 apartment, in the hallway apartment, which is the cat
13 transporter. The door to the roof op, no forced entry.
14 There's a jacuzzi out on the rooftop. That's the rooftop to
15 the bar called the Downtown. These are the exterior
16 windows. There's an attic in the apartment also that there
17 was no forced entry to in the window or the door.

18 This is a general overview of the rooftop and the
19 Downtown Bar, which is just north of the apartment. A
20 jacuzzi on the rooftop. The exterior to the door leading to
21 the hallway, no forced entry to the door, the frame, the
22 handle.

23 I'm walking now back toward the front entrance of
24 the entire apartment, the long narrow staircase leading to
25 the door which is being secured by police officers.

1 That's it.

2 (Whereupon, the witness resumes his seat on
3 the witness stand.)

4 Q Now, Detective, after you videotaped the crime
5 scene that the jury just saw, what's the next thing you did
6 in terms of processing that scene?

7 A Shortly after the video, I then took still
8 photographs of the exterior and interior apartment.

9 MR. BIANCAVILLA: Judge, could we have these
10 photographs marked for identification? There are
11 several of them.

12 THE COURT: We'll mark them sequentially.

13 (Whereupon, the referred to items are
14 received and marked People's Exhibits 11 through 30 for
15 identification by the reporter as instructed.)

16 THE COURT: People's 11 through 30 marked for
17 identification.

18 Q Detective, I show what you has been marked as
19 People's 11 through 30 for identification, can you quickly
20 those?

21 A Yes, sir. These are the photographs that I took
22 that night.

23 Q Do they fairly and accurately depict the areas
24 which you photographed and which you collected evidence
25 from?

1 A Yes, they do.

2 MR. BIANCAVILLA: We will offer those, Judge.

3 THE COURT: Please show them to
4 Mr. Chamberlain.

5 MR. CHAMBERLAIN: Short voir dire, Judge, and
6 I would like to approach.

7 THE COURT: Do you want a voir dire first?

8 MR. CHAMBERLAIN: I would like the voir dire
9 first.

10 THE COURT: Go right ahead.

11 VOIR DIRE EXAMINATION

12 BY MR. CHAMBERLAIN:

13 Q Detective, you indicated these are the
14 photographs -- crime scene photographs you took that night.
15 They're not the only photographs, are they?

16 A No, they're not.

17 Q As a matter of fact, you took literally dozens,
18 maybe hundreds, right?

19 MR. BIANCAVILLA: Objection.

20 THE COURT: I'm not sure what the relevancy
21 of that is, Mr. Chamberlain.

22 MR. CHAMBERLAIN: Well, the relevancy, Judge,
23 is Rosario material I have that identifies certain
24 photographs. I might ask this Detective, your
25 Honor --

1 MR. BIANCAVILLA: Judge, this is a voir dire
2 on those photographs.

3 THE COURT: As to whether this photograph
4 fairly and accurately represents the area that the
5 detective took the photographs of.

6 MR. CHAMBERLAIN: Well, it represents various
7 things. I don't -- I object to the mass introduction,
8 to start with. A lot of them are not of the apartment.

9 THE COURT: I understand that. But each one
10 of those represents something that the People wish to
11 put into evidence in their case.

12 MR. CHAMBERLAIN: I would like to know, so I
13 can tie these photographs into the crime scene reports
14 that we got, which indicate distance from the subject,
15 direction.

16 MR. BIANCAVILLA: Judge, that's beyond --

17 THE COURT: You will have an opportunity for
18 cross-examination, Mr. Chamberlain. If you want, there
19 are certain voir dire questions you can ask now. Take
20 your time. But, there are certain questions better
21 reserved for cross-examination.

22 MR. CHAMBERLAIN: Well, there are concerns,
23 which those photographs represent in connection with
24 his prior testimony before the grand jury.

25 THE COURT: That is not more subject for a

1 voir dire, with respect to these photographs.

2 MR. CHAMBERLAIN: All right, Judge. May we
3 approach then with respect to these?

4 THE COURT: You may.

5 Step down, Detective.

6 (Whereupon, the following takes place at the
7 Bench, between the Court and Counsel:)

8 MR. CHAMBERLAIN: We have a number of
9 photographs of the victim.

10 THE COURT: Yes.

11 MR. CHAMBERLAIN: Basically, she's face down.

12 THE COURT: Yes.

13 MR. CHAMBERLAIN: I have no objection to
14 those, body, and so forth.

15 THE COURT: Why don't you tell me which one
16 you have objection to.

17 MR. CHAMBERLAIN: I think it's unnecessarily
18 gory. And, obviously, she was turned over to take the
19 photograph. I don't think it's --

20 THE COURT: You wish to be heard,
21 Mr. Biancavilla?

22 People's number 24 for identification.

23 MR. BIANCAVILLA: The reason why she's turned
24 over, what is being displayed is the position of the
25 ligature around her neck as it existed within the

1 apartment.

2 MR. CHAMBERLAIN: There are other
3 photographs.

4 THE COURT: With respect to People's 24, I'm
5 going to admit that into evidence.

6 Your exception is noted.

7 Which other ones?

8 MR. CHAMBERLAIN: That's it.

9 THE COURT: Just that one?

10 MR. CHAMBERLAIN: Yes.

11 THE COURT: The others you agree?

12 MR. CHAMBERLAIN: The others I have no
13 objection.

14 THE COURT: You have no objection.

15 Okay.

16 (Whereupon, the following takes place in open
17 court:)

18 THE COURT: With respect to People's number
19 11, 12, 13, 14 15, 16, 17, 18, 19, 20, 21, 22, 23, 25,
20 26, 27, 28, 29 and 30, I understand you have no
21 objection to those.

22 MR. CHAMBERLAIN: That's correct.

23 THE COURT: With respect to People's number
24, I understand you object to that one.

25 MR. CHAMBERLAIN: That is also correct,

1 Judge.

2 THE COURT: All right, I'm going to overrule
3 your objection and all will be marked into evidence.

4 (Whereupon, the referred to items previously
5 marked for identification are received and marked
6 People's Exhibits 11 through 30 in evidence by the
7 reporter as instructed.)

8 THE COURT OFFICER: 11 through 30 marked into
9 evidence.

10 MR. BIANCAVILLA: Thank you.

11 DIRECT EXAMINATION CONTINUED

12 BY MR. BIANCAVILLA:

13 Q I ask the witness be shown People's 31 for
14 identification.

15 Detective, you're being shown what is marked as
16 People's Exhibit 31 for identification, do you recognize
17 that?

18 A Yes, I do.

19 Q What do you recognize these to be?

20 A This is a computer generated sketch that was
21 drawn by another detective in the crime scene unit based
22 upon measurements that I took that night of the apartment.

23 Q Does that sketch fairly and accurately depict the
24 layout of that apartment as it existed on April 13th of 2000
25 when you examined it?

1 A Yes, it does.

2 MR. BIANCAVILLA: We would offer that into
3 evidence, Judge.

4 THE COURT: Please show it to
5 Mr. Chamberlain.

6 MR. CHAMBERLAIN: No objection.

7 THE COURT: Mark it in evidence.

8 (Whereupon, the referred to document
9 previously marked for identification is received and
10 marked People's Exhibit 31 in evidence by the reporter
11 as instructed.)

12 THE COURT OFFICER: So marked.

13 MR. BIANCAVILLA: Judge, could we display
14 that for the jury please on the easel?

15 Could we have the Detective step down, Judge.

16 THE COURT: Yes.

17 Step down, Detective.

18 (Whereupon, the witness leaves the witness
19 stand.)

20 Q Detective Downes, could you describe for the jury
21 what they're viewing in People's Exhibit 31?

22 A This is a computer generated sketch of
23 measurements and dimensions of the apartment that I took
24 that night.

25 These would be the stairs coming up from the

1 bottom of the entrance. The long narrow hallway. The door
2 that is swung open to the rooftop that had the jacuzzi.
3 Here would be the door to the actual apartment. Just to the
4 left of that door is a bathroom with another door. Another
5 short hallway. This would be the kitchen and dining area.
6 Then leaving the kitchen, the bedroom, and then the living
7 room. And this is a window looking out on Main Street.

8 Q Now, Detective, I'm going to display People's
9 Exhibits 11 in evidence. I'm going to ask you to take a
10 look at that and just tell the jury what they're viewing
11 there?

12 A This is a photograph that I took from Main
13 Street. I'm standing on Main Street, looking westbound.
14 And it shows the restaurant, Captain Andy's. There's an
15 automobile on Main Street. This is the restaurant. These
16 set of three windows represent the windows to the apartment
17 looking out on Main Street. Also, above the apartment there
18 was an attic with another window that was used for storage.
19 But this is the front of Captain Andy's with the picture of
20 the apartment living room windows.

21 Q Could you take this photograph and pin it up on
22 that diagram where the front of Captain Andy's would be. If
23 you need to put it below it.

24 Now, the front windows depicted in that
25 photograph would be where?

1 A These sets of three windows would be this window
2 here, in the living room.

3 Q Okay. Displaying Exhibit number 12, tell the
4 jury what they're looking at there?

5 A This was -- this is a photograph that I took
6 eastbound. This shows a cement patio area and a glass block
7 wall that separated a cement patio that was just on the
8 outside of the entrance to that apartment. There's a
9 sidewalk there. And just on the other side of this glass
10 box window would be the entrance to the apartment and also
11 the rear entrance to Captain Andy's.

12 Q Could you place that up their also. And
13 displaying number -- People's Exhibit 13, what are they
14 viewing there?

15 A This is a photograph that I took westbound from
16 the front entrance door leading up the stairway into the
17 apartment. And here it shows the cement patio. There's a
18 overhang, an open overhang. There's some firewood there.
19 This is a picture that I took standing directly in front of
20 the door leading up to the apartment.

21 Q Please post that. Displaying Exhibit number 14?

22 A It's a photograph that I took from only several
23 feet away. It shows the metal door leading up the flight of
24 stairs to the apartment. And it shows that the door lock
25 and the handle are intact and there doesn't appear to be any

1 sort of forced entry to that metal door.

2 Q Please post that. Displaying Exhibit 15?

3 A This is a photograph that I took showing the long
4 flight of stairs that leads up to the narrow hallway that
5 lead to the door into the apartment itself.

6 Q Please post that. Displaying Exhibit 16?

7 A I now walking up the flight of stairs. I'm
8 taking a picture eastbound. It shows the narrow hallway
9 leading to the entrance of the apartment and in the hallway
10 there's some charcoal and some cat transporter boxes in the
11 hallway.

12 Q Please post that. Displaying Exhibit 21.

13 A This is a photograph that I took. I now walked
14 into the kitchen of the apartment. It's a general scene
15 photograph of ruth Williams lying on the carpet, from her
16 feet, towards her head, laying next to the bed, and in
17 overalls, a white shirt and her arm is twisted and
18 discolored.

19 Q Post that in the room where that was taken.

20 Displaying Exhibit 18?

21 A This is a photograph that I took eastbound as
22 soon as I opened up the entrance to her -- Ruth Williams'
23 apartment door. It's a photograph of the eat-in kitchen,
24 the table, contents on top of the table.

25 Q Please post that. Displaying Exhibit number 29,

1 where was that location?

2 A This is a photograph in the living room. This is
3 the end table and the damaged telephone jack that I observed
4 that night, that had the wires torn out of it and the
5 plastic broken.

6 Q Please place that.

7 MR. BIANCAVILLA: Okay, Judge, may we
8 approach a moment?

9 THE COURT: Yes.

10 (Whereupon, there is a discussion that takes
11 place at the Bench, off the record, between the Court
12 and Counsel)

13 THE COURT: Ladies and gentlemen, as you
14 realize, it's very hot in this courtroom. And it's
15 probably getting very uncomfortable. I don't think at
16 this point the air conditioning is working. So, what
17 I'm going to do is adjourn for the day at this point,
18 because I would rather have you excused than be
19 uncomfortable.

20 I will ask you to come back and we will start
21 tomorrow at 9:30. Again, as you remember, get here a
22 little earlier than that due to the parking problem.

23 Again, do not discuss this case among
24 yourselves or with anyone else. Keep an open mind. Do
25 not form or express any opinions until the entire case

1 is completed. Do not read or listen to any account of
2 this case, should it be reported in the media. Do not
3 visit or view any premises or place. Finally, do not
4 permit any party to or attempt to influence you. You
5 must promptly report to the Court any violation
6 thereof.

7 Have a very nice evening. We'll see you
8 tomorrow morning at 9:30.

9 (Whereupon, the sworn jury and alternates
10 leave the courtroom)

11 THE COURT: Counsel, we'll see you tomorrow
12 at 9:30.

13 MR. BIANCAVILLA: Thank you, Judge.

14 THE COURT: Detective, we'll see you tomorrow
15 at 9:30. Please do not talk to anybody about this
16 case.

17 THE WITNESS: Thank you, your Honor.

18 MR. CHAMBERLAIN: Could we get a schedule on
19 witnesses?

20 THE COURT: Yes, come forward.

21 (Whereupon, court stands in recess. The
22 trial is adjourned to May 9, 2002 at 9:30 a.m.)

23

24

25